

1 IN THE UNITED STATES DISTRICT COURT
2 FOR THE NORTHERN DISTRICT OF OHIO
3 EASTERN DIVISION
4 IN RE: NATIONAL : MDL No. 2804
5 PRESCRIPTION OPIATE :
6 LITIGATION : Case No. 17-md-2804
 :
 APPLIES TO ALL CASES : Hon. Dan A. Polster
 :
 :

8 HIGHLY CONFIDENTIAL

9 SUBJECT TO FURTHER CONFIDENTIALITY REVIEW

11 - - - -
12 JANUARY 18, 2019
13 - - - -

14 VIDEOTAPED DEPOSITION OF MICHAEL BIANCO,
15 taken pursuant to notice, was held at Marcus &
16 Shapira, One Oxford Center, 35th Floor, Pittsburgh,
17 Pennsylvania 15219, by and before Ann Medis,
18 Registered Professional Reporter and Notary Public in
19 and for the Commonwealth of Pennsylvania, on Friday,
20 January 18, 2019, commencing at 9:07 a.m.

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1	* I N D E X *		
2	MICHAEL BIANCO		PAGE
3	EXAMINATION BY MR. HUDSON	8, 191	
	EXAMINATION BY MR. SIDLINGER	163	
4	EXAMINATION BY MR. KOBRIN	185, 201	
5			
6	* INDEX OF HBC-BIANCO EXHIBITS *		
7	NO.	DESCRIPTION	PAGE
8	Exhibit 1	Giant Eagle Pharmacy As of February 2015 organizational chart HBC_MDL00002219	28
9	Exhibit 2	Email chain, 9/9/13, from G. Carlson to K. Remas, subject: RE: Controls at HBC HBC_MDL000135002 - 00135024	36
10	Exhibit 3	20131030_Daily_HBC_Controls HBC_MDL00002348	52
11	Exhibit 4	Email, 10/25/13, from L. Wasielek to G. Carlson, et al., subject: Anda/GE Demo Meeting Minutes 131016, attaching Anda GE Meeting Minutes_131016.docx HBC_MDL00135030 - 00135036	52
12	Exhibit 5	Email, 11/11/13, from G. Carlson to M. Bianco, subject: Fw: Controlled Substance Suspicious Monitoring, attaching invite_4469.ics HBC_MDL00136771 - 00136772	56
13	Exhibit 6	Email chain, 12/5/13, from J. Millward to A. Mollica, et al., subject: 2401 HBC_MDL00132815 - 00132816	60
14	Exhibit 7	Email chain, 1/11/14, from G. Carlson to M. Bianco, subject: Fyi FW: Daily HBC Suspicious Purchasing Report - 01/09/14 HBC_MDL00134729	71
15			
16			
17			
18			
19			
20			
21			
22			
23			
24			
25			

1	* INDEX OF HBC-BIANCO EXHIBITS (Continued) *		
2	NO.	DESCRIPTION	PAGE
3	Exhibit 8	Email chain, 1/15/14, from G. Carlson to J. Millward, et al., subject: FW: Qualitest SOM, attaching Wholesaler Questionnaire.docx	87
4		HBC_MDL00134936 - 00134940	
5	Exhibit 9	Email chain, 1/22/14, from J. Millward to G. Carlson, et al., subject: FW: Wholesale Distributor Questionnaire, attaching Wholesale Distributor Questionnaire	89
6		HBC_MDL00135570 - 0013557	
7			
8	Exhibit 10	Qualitest Wholesale Distributor/ Chain Distribution Center Questionnaire	90
9		ENDO_HSGAC_0000841 - 0000843	
10	Exhibit 11	Email chain, 5/9/14, from M. Cullen M. Bianco, subject: FW: Purdue Meeting Request	95
11		HBC_MDL00154218 - 00154219	
12			
13	Exhibit 12	Email, 7/31/14, from E. Brantley to M. Murphy, subject: Giant Eagle	97
14		ENDO_HSGAC_0017819 - 0017820	
15			
16	Exhibit 13	Email, 8/22/14, from M. Murphy to E. Brantley, subject: FW: Qualitest/ Giant Eagle, attaching Risk Evaluation Report by T. Sheller	97
17		ENDO_HSGAC_0007616 - 0007639	
18			
19	Exhibit 14	Email chain, 10/1/14, from M. Bianco to J. Millward, subject: FW: Narcs found in tote	111
20		HBC_MDL00137363 - 00137364	
21			
22	Exhibit 15	Email, 4/9/15, from S. Green to D. Stevens, et al., subject: All policies for VAWD reflected as of 5:00pm today, attaching various policies	134
23		HBC_MDL00078594 - 00078668	
24			
25			

1	* INDEX OF HBC-BIANCO EXHIBITS (Continued) *		
2	NO.	DESCRIPTION	PAGE
	Exhibit 16	Invitation from G. Carlson to R. McClune, et al., for Pharmacy Quarterly Meeting on 11/11/14	151
3		HBC_MDL00015549 - 00015608	
4			
5	Exhibit 17	Email chain, 12/18/13, from G. Carlson to M. Bianco, et al., subject: RE: Hydrocodone APAP/Elixir/TabConv Progr status	163
6		HBC_MDL00171642 - 00171645	
7			
8	Exhibit 18	Email chain, 5/22/14, from G. Carlson to M. Bianco, subject: Re: CSMP Report: Follow-Up with Account Manager	172
9		HBC_MDL00135101 - 00135103	
10			
11	Exhibit 19	Email chain, 4/18/14, from M. Bianco to G. Carlson, subject: Re: 35 missing tote	179
12		HBC_MDL00135668 - 00135670	
13			
14		- - - -	
15			
16			
17			
18			
19			
20			
21			
22			
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1 P R O C E E D I N G S

2 - - - -

3 THE VIDEOGRAPHER: We are now on the
4 record. My name is Adam Balenciaga. I'm a
5 videographer retained by Golkow Litigation
6 Services. Today's date is January 18, 2019, and
7 the time is 9:07 a.m.

8 This video deposition is being held at
9 Marcus & Shapira, LLP, One Oxford Centre, 35th
10 Floor, Pittsburgh, PA 15219, in the matter of
11 National Prescription Opiate Litigation,
12 MDL No. 2804, for the United States District Court
13 for the Northern District of Ohio, Eastern
14 Division.

15 The deponent is Mike Bianco.

16 All counsel will be noted on the stenographic
17 record. Will all counsel identify themselves.

18 MR. HUDSON: Ty Hudson and Thomas
19 Sidlinger of Wagstaff & Cartmell for plaintiffs.

20 MR. SCHWAB: John Schwab on behalf of
21 Cardinal Health.

22 MR. KOBRIN: Joshua A. Kobrin of Marcus
23 & Shapira on behalf of HBC Service Company.

24 THE VIDEOGRAPHER: Anyone on the phone?

25 MR. PAUL: This is Raj Paul of Covington

1 & Burling on behalf of McKesson.

2 MS. LANGSTON: This is Nicole Langston
3 from Jones Day on behalf of Walmart, Inc.

4 MR. HENNESSY: This is Sean Hennessy
5 from Arnold & Porter on behalf of the Endo and Par
6 Pharmaceutical defendants.

7 MR. SCHOCK: Andrew Schock of Jackson
8 Kelly on behalf of AmerisourceBergen Drug
9 Corporation.

10 THE VIDEOGRAPHER: Anyone else?

11 The court reporter is Ann Medis and will now
12 swear in the witness.

13 MICHAEL BIANCO,
14 having been first duly sworn, was examined
15 and testified as follows:

16 EXAMINATION

17 BY MR. HUDSON:

18 Q. Good morning, sir. Could you please
19 state your name for the record.

20 A. Mike Bianco.

21 Q. Mr. Bianco, my name is Ty Hudson, and I
22 represent the plaintiffs here today. I'm going to
23 be asking you some questions in this deposition.

24 What is your current address? Do you live
25 here in the Pittsburgh area?

1 A. Yes, sir.

2 Q. And are you currently employed by Giant
3 Eagle?

4 A. Yes.

5 Q. Have you ever had your deposition taken
6 before?

7 A. No.

8 Q. Let's just make sure then that we
9 understand the process before we get going. I'm
10 going to be asking you questions, and you're going
11 to be giving answers. Do you understand that?

12 A. Yes.

13 Q. At some point your counsel may put
14 objections on the record or other counsel may put
15 objections for the record for the court just to
16 preserve that. Unless your counsel instructs you
17 not to answer, can we agree that you'll answer my
18 questions?

19 A. Yes.

20 Q. You do understand that you're under
21 oath. Although we're here in an office at a law
22 firm, it has the same force and effect as if we
23 were in a courtroom in front of a judge and a
24 jury. Do you understand that?

25 A. Yes.

1 Q. If you don't understand my question,
2 will you let me know so I can reframe it?

3 A. Yes.

4 Q. And the flip side of that is, is it fair
5 that if you do answer my question, it's fair for
6 me to assume that you did understand it?

7 A. Yes.

8 Q. And you're doing a great job of this,
9 but we need audible answers rather than head
10 nodding or other nonverbals. Okay?

11 A. Understood.

12 Q. And then lastly, at any time if you want
13 to take a break, just let me know and we can go
14 off the record. All I would ask is that you
15 answer any question that's pending at the time.
16 Is that fair?

17 A. Yes.

18 Q. Let's just start with your preparation.
19 What did you do to prepare for this deposition
20 today?

21 A. I met with counsel yesterday to discuss
22 the process.

23 Q. About how long was that meeting?

24 A. A few hours, five hours.

25 Q. Did you look at any documents?

1 A. I did.

2 Q. Did those refresh your recollection in
3 any way?

4 A. Yes.

5 Q. Any particular documents you recall
6 reviewing that refreshed your recollection?

7 MR. KOBRIN: Objection. I don't want
8 him talking about particular documents. That's
9 work product that we selected from the file.

10 MR. HUDSON: You're taking the position
11 that it's privileged or work product if he
12 reviewed documents that refreshed his
13 recollection?

14 MR. KOBRIN: The documents that I put
15 together I think are privileged, yeah.

16 MR. HUDSON: Are you going to instruct
17 him not to answer?

18 MR. KOBRIN: I'd rather you not answer
19 that. Are there any documents that you would cite
20 that you particularly remember? The answer "yes"
21 or "no" is fine, but I don't want to get into
22 specifics. Are there particular documents that
23 you recall right now that refreshed your
24 recollection?

25 THE WITNESS: No.

1 BY MR. HUDSON:

2 Q. Let's shift gears and talk about your
3 education. Where did you attend college?

4 A. Duquesne University.

5 Q. And did you obtain a degree from
6 Duquesne?

7 A. I did.

8 Q. What was your degree?

9 A. Doctor of pharmacy.

10 Q. When did you graduate from pharmacy
11 school?

12 A. 2013.

13 Q. And when did you start pharmacy school?

14 A. 2005.

15 Q. And did you work while you attended
16 pharmacy school?

17 A. I did.

18 Q. And during that time, it looked to me,
19 and I've looked at your LinkedIn profile, so I'll
20 try to kind of shortcut this background, but it
21 looked like for most of the, I guess, 13 years,
22 from 2005 until the present, you've worked at
23 Giant Eagle with a couple of exceptions. It looks
24 like you were at -- you were the director of
25 orientation of Duquesne; right?

1 A. Correct.

2 Q. And that was from 2008 to 2010?

3 A. Yes.

4 Q. And then it looked like you had about a
5 five-month stint at HC Pharmacy in 2015.

6 A. Yes.

7 Q. Otherwise -- I guess one other. It
8 looked like you were a pharmacy intern at a
9 women's hospital for about a year and a half.

10 A. Correct.

11 Q. But then otherwise, it looked like the
12 remaining 10 or 11 years were at Giant Eagle.

13 A. Yes.

14 Q. If you could, just walk me through those
15 jobs that you had at Giant Eagle and what your
16 responsibilities were.

17 A. Starting from --

18 Q. Starting from 2005.

19 A. I started in 2005 as a pharmacy
20 technician doing day-to-day technician tasks,
21 which that would include ringing a register,
22 counting medication, data entry. And then after
23 that I was on a --

24 Q. If I could, now you're going to pharmacy
25 school and working at the same time?

1 A. Correct.

2 Q. Go ahead.

3 A. After that, I was on a software
4 implementation team where we trained
5 nonpharmacists, pharmacy staff how to use our
6 dispensing software. And then my work with Giant
7 Eagle, then I was on a support desk team where our
8 pharmacies would call in and ask questions
9 pertaining to how to use the software.

10 From there I was manager of pharmacy
11 inventory and vendor relations, which essentially
12 was maximizing inventory utilization, so turns,
13 et cetera, with the main focus of reducing shrink,
14 the unknown loss, or I'm sorry, known loss which
15 would be expired products.

16 And then after that, I took a reduced
17 capacity because my school load picked up. And
18 then from there I was category manager where I
19 oversaw our sourcing of products for pharmacy.

20 Q. And is that the role you're still in
21 today?

22 A. I'm sorry. No. I apologize. After
23 that, I went to UPMC. When I came back, now I'm
24 on what's called the managed care side where we
25 do -- my main focus is contracting with insurance

1 companies.

2 Q. And you've had that role for a little
3 more than three years?

4 A. Correct, 2015 I think, end of 2015.

5 Q. Let's go back, if we could, to the first
6 role that you described, the pharmacy software
7 implementation team.

8 A. That was the second.

9 Q. Oh, you're right. You were pharmacy
10 intern for a couple years; right?

11 A. Correct. I think two years, yes.

12 Q. So you're right. The second job then,
13 the pharmacy software implementation team member,
14 was that software implementation at the Giant
15 Eagle retail pharmacies?

16 A. Yes.

17 Q. Did you have any responsibilities
18 related to the HBC warehouse?

19 A. During?

20 MR. KOBRIN: Object to form.

21 BY MR. HUDSON:

22 Q. Doctor, this time period from 2007 to
23 2009 when you're dealing with software
24 implementation.

25 A. When I was dealing with the software,

1 no.

2 Q. At that point in time, from 2007 to
3 2009, were you aware that Giant Eagle had created
4 a warehouse?

5 A. Yes.

6 Q. Was that generally known as the HBC
7 Service Company warehouse or the HBC warehouse?

8 A. I don't recall. I think it was just the
9 warehouse.

10 Q. Were you aware at that time or did you
11 become aware at some point that Giant Eagle had
12 created an operating division or an entity known
13 as HBC Service Company?

14 MR. KOBRIN: Object to form.

15 THE WITNESS: Can you repeat that.

16 BY MR. HUDSON:

17 Q. Sure. At this time in the 2009
18 timeframe, were you aware that Giant Eagle had
19 created an operating division or a subsidiary that
20 was known as HBC Service Company?

21 MR. KOBRIN: Object to form.

22 THE WITNESS: When I was -- as a store
23 technician or intern and then on the pharmacy
24 team, the software implementation team, I don't
25 believe I was aware of that.

1 BY MR. HUDSON:

2 Q. Did you become aware of that at some
3 point in time?

4 A. Yes.

5 Q. Do you have any sort of ballpark
6 recollection of when that was?

7 A. When I took on the vendor relations,
8 inventory manager position. So '9, '10. '10 I
9 think is when I started that.

10 Q. It looks like from your LinkedIn profile
11 maybe it was in 2011.

12 A. Yes, yeah.

13 Q. So fair to say that in the 2007 to 2009
14 timeframe, in your role as the pharmacy software
15 implementation team, did you have any occasion to
16 visit the warehouse, the HBC warehouse?

17 A. During that time, no.

18 Q. If we jump forward, it looks like as you
19 discussed, then you came back to Giant Eagle in
20 2011 on the inventory, focused on inventory?

21 A. I came back originally on the pharmacy
22 support team, so fielding questions at a technical
23 help desk.

24 Q. And where was that desk located?

25 A. At our corporate office in Pittsburgh.

1 Q. And then were you promoted into the
2 manager, pharmacy inventory and vendor income
3 role?

4 A. Yes.

5 Q. And then I think you indicated at that
6 time you learned about the HBC operating division.

7 A. Correct.

8 MR. KOBRIN: Object to form.

9 BY MR. HUDSON:

10 Q. And how did you learn of that?

11 A. It would have been part of understanding
12 how our supply chain worked.

13 Q. And what was your understanding at that
14 time of how the supply chain worked specifically
15 for controlled substances that were being shipped
16 through the HBC warehouse?

17 A. Really just that we housed them, that we
18 had some of them in that location, and some were
19 sourced from other locations like McKesson or
20 Anda.

21 Q. At this timeframe from 2011 to 2013, did
22 you ever visit the HBC warehouse?

23 A. Yes.

24 Q. How many times?

25 A. I believe just once.

1 Q. And why did you visit it?

2 A. Just to see the facility.

3 Q. And at that time were you aware of who
4 was overseeing that facility?

5 A. Yes.

6 Q. And who was that?

7 A. I believe Christy Hart was.

8 Q. Was there somebody in particular
9 overseeing the controlled substances portion of
10 the warehouse?

11 A. I believe Christy was overseeing the
12 whole warehouse.

13 Q. What about Matt Rogos, is that a name
14 that is familiar?

15 A. Yes. Matt was -- yes. Matt would have
16 overseen the warehouse as well. I'm sorry. I
17 think Christy might have reported in to him.

18 Q. And do you know the timeframe of when
19 Matt oversaw the warehouse?

20 A. He left before I did originally, but I'm
21 not sure of the specifics.

22 Q. Explain to me what that means.

23 A. I believe he left Giant Eagle before.
24 I'm sorry. I left in 2015. I believe he left
25 before me, but I don't know exactly when before.

1 Q. In your inventory role, did you come to
2 learn about any of the controls that existed at
3 the HBC warehouse for controlled substances?

4 A. No.

5 Q. In this inventory role from 2011 to
6 2013, did you know one way or the other whether
7 the HBC warehouse had any controls for the
8 controlled substances that were shipped in and out
9 of that facility?

10 MR. KOBRIN: Object to form.

11 THE WITNESS: I know we had physical
12 barriers such as a cage that they were in. But
13 from the day-to-day operations, I wasn't involved
14 in those.

15 BY MR. HUDSON:

16 Q. At some point in time after you left
17 your inventory role and assumed different roles at
18 Giant Eagle, did you learn more about how the HBC
19 warehouse operated day to day in terms of the
20 controls for the controlled substances that were
21 shipped in and out of the facility?

22 A. With respect to their controls for
23 controlled substances, no.

24 Q. And is that true as you sit here today,
25 meaning at no point in time that you've worked at

1 Giant Eagle did you become aware of the controls
2 or processes that were applied at the HBC
3 warehouse as it relates to controlled substances?

4 A. At the physical location, no.

5 Q. Who would you say would be most
6 knowledgeable about the day-to-day controls or
7 procedures that were applied at the HBC service
8 warehouse?

9 A. During what timeframe?

10 Q. From 2009 to 2014.

11 A. We had a compliance team that was
12 responsible for some of that. I didn't get
13 involved in this part of the business. But our
14 compliance team, which was made up of Joe Millward
15 and George Chunderlik and then Christy Hart and
16 Matt Rogos.

17 Q. And then you indicated that Matt left at
18 some point in 2014 or 2015. Would Walter Durr be
19 his successor that would be --

20 A. I believe so, yes.

21 Q. Other than Joe Millward, George
22 Chunderlik, Christy Hart, Walter Durr and Matt
23 Rogos, anyone else you can think of that may have
24 knowledge about the day-to-day procedures or
25 controls at the HBC service warehouse?

1 A. I'm sure there are others, but none that
2 I can think of now.

3 Q. At some point did you become aware that
4 there are federal regulations that apply to
5 distributors who are -- have a DEA license to
6 distribute controlled substances?

7 A. Yes.

8 Q. And how did you come to learn of that
9 federal framework?

10 A. I'm not sure of the details around it.
11 I don't know if it was through my pharmacy
12 training or through work. I don't know.

13 Q. Do you have an understanding of what
14 obligations exist for distributors under the
15 Controlled Substances Act?

16 A. Yes.

17 Q. What is your understanding of the
18 obligations?

19 MR. KOBRIN: Object to form.

20 THE WITNESS: The obligations under the
21 Act would include physical barriers, suspicious
22 order monitoring, a combination of those.

23 BY MR. HUDSON:

24 Q. Anything else you can think of?

25 A. This wasn't my area of focus, so no.

1 Q. Do you have any knowledge about problems
2 with opioid abuse or opioid diversion that's
3 occurred in Ohio or generally in the United
4 States?

5 MR. KOBRIN: Object to form.

6 THE WITNESS: Other than what I've seen
7 on the news or read in articles, no.

8 BY MR. HUDSON:

9 Q. And from what you've seen and what
10 you've heard, what is your understanding of
11 problems with opioids in the United States?

12 MR. KOBRIN: Object to form.

13 THE WITNESS: That they're being
14 misused, I believe, whether it be prescription or
15 illicit.

16 BY MR. HUDSON:

17 Q. Do you have any knowledge about the
18 opioids that were most likely to be abused or
19 diverted?

20 A. No.

21 Q. Do you understand that at some point,
22 Giant Eagle decided to obtain a DEA license to
23 become a distributor for Schedule III, IV and V
24 controlled substances?

25 A. At what location?

1 Q. At the HBC service location.

2 A. Yes.

3 Q. Were you involved in any of the decision
4 making to obtain that DEA license to become a
5 distributor?

6 A. No.

7 Q. Do you know who was involved in making
8 the decision to become a distributor?

9 A. I do not.

10 Q. Is it your understanding that the HBC
11 service warehouse had a license to act as a
12 distributor for Schedule III, IV and V controlled
13 substances?

14 A. Yes.

15 Q. And is it your understanding that that
16 license name was in the name of HBC Service
17 Company as opposed to Giant Eagle?

18 A. Yes.

19 Q. I don't want to know if you've had any
20 conversations with lawyers. I don't want to
21 anything that's privileged. But in your capacity
22 as a businessperson at Giant Eagle, did you obtain
23 any knowledge about why the license was in the
24 name of HBC Service Company?

25 A. No.

1 Q. Is it your understanding that HBC
2 Service Company acted as a distributor for
3 hydrocodone combination products from November of
4 2009 to October of 2014?

5 A. I don't know the exact timeframe, but,
6 yes, they did distribute hydrocodone products.

7 Q. Do you know whether or not hydrocodone
8 combination products were rescheduled from a
9 Schedule III to a Schedule II controlled
10 substance?

11 A. I do.

12 Q. And did that occur in or around October
13 of 2014?

14 A. I don't remember the time.

15 Q. Were you involved in any of the business
16 implications that that had for HBC or Giant Eagle
17 when hydrocodone combination products were
18 reclassified from Schedule III to Schedule II?

19 MR. KOBRIN: Object to form.

20 THE WITNESS: Yes.

21 BY MR. HUDSON:

22 Q. And tell me what business implications
23 that had for Giant Eagle or HBC.

24 MR. KOBRIN: Object to form.

25 THE WITNESS: It would have changed our

1 product line and then how we were sourcing it,
2 meaning how our pharmacies were buying it, would
3 have changed as well.

4 BY MR. HUDSON:

5 Q. Do you understand how it changed?

6 A. I believe we stopped carrying that
7 product or distributing that product out of the
8 HBC facility and began to buy it from another
9 distributor, but I don't remember details.

10 Q. Were you involved at all in the decision
11 making around whether to continue to act as a
12 distributor for hydrocodone combination products
13 or instead go with McKesson or Anda or another
14 distributor for those opioids?

15 MR. KOBRIN: In 2014?

16 MR. HUDSON: In 2014.

17 MR. KOBRIN: Object to form.

18 THE WITNESS: Can you repeat that?

19 BY MR. HUDSON:

20 Q. Sure. Were you involved in any of the
21 decision making around whether HBC or Giant Eagle
22 would continue to distribute hydrocodone
23 combination products or instead turn to McKesson
24 or Anda or another distributor to distribute those
25 products into Giant Eagle pharmacies in 2014?

1 MR. KOBRIN: Object to form.

2 THE WITNESS: Yes.

3 BY MR. HUDSON:

4 Q. Tell me what you recall about those
5 meetings and the decisions that were made.

6 A. For the rescheduling, I believe we met
7 just to discuss -- I don't know who we would have
8 met with, but it was discussed that it was
9 changing from CIII to a CII. We didn't have the
10 license to distribute CIIs at the time, so we were
11 just going to stop carrying it.

12 Q. Did that have business implications for
13 Giant Eagle?

14 MR. KOBRIN: Object to form.

15 THE WITNESS: Yes.

16 BY MR. HUDSON:

17 Q. And what were those business
18 implications?

19 MR. KOBRIN: Object to form. Asked and
20 answered.

21 THE WITNESS: Where we were sourcing the
22 inventory from, the product line at our warehouse,
23 how our pharmacies were obtaining it.

24 BY MR. HUDSON:

25 Q. Did it have a financial impact on Giant

1 Eagle?

2 MR. KOBRIN: Object to form.

3 THE WITNESS: I presume it did. I don't
4 recall.

5 MR. KOBRIN: Don't assume anything.

6 BY MR. HUDSON:

7 Q. By no longer acting as the distributor
8 for hydrocodone combination products, were those
9 products then less profitable for Giant Eagle?

10 A. I don't know.

11 Q. Do you know whether or not Giant Eagle
12 saved money by becoming the distributor for
13 Schedule III, IV and V controlled substances?

14 MR. KOBRIN: Object to form.

15 THE WITNESS: During what time?

16 BY MR. HUDSON:

17 Q. 2009 to 2014.

18 A. I don't know on specifics.

19 Q. Do you know why Giant Eagle made the
20 decision to become a distributor of controlled
21 substances?

22 A. No.

23 (HBC-Bianco Exhibit 1 was marked.)

24 BY MR. HUDSON:

25 Q. Let me hand you what I've marked as

1 Exhibit 1. And this is just an organizational
2 chart. This one is from February of 2015.

3 Does this look accurate to you?

4 A. Yes.

5 Q. And at this time you were in the role of
6 category manager, pharmacy?

7 A. Correct.

8 Q. And you reported to Mr. Doerr?

9 A. Correct.

10 Q. Did this organizational structure remain
11 largely the same during the entire time that you
12 were the category manager of pharmacy, so from
13 August of 2013 to July of 2015, or were there
14 changes during that time period?

15 A. There were changes.

16 Q. Did you report to somebody other than
17 Mr. Doerr during that time period?

18 A. Yes.

19 Q. Who did you report to?

20 A. Greg Carlson.

21 Q. And when did you stop reporting to
22 Mr. Carlson?

23 A. I believe it would have been -- I don't
24 recall.

25 Q. Any ballpark idea?

1 A. When Mark would have come to the
2 organization. I'm not sure when.

3 Q. I'm sure we can figure that out.

4 So was Greg Carlson your direct report? In
5 other words, was he the highest officer within the
6 pharmacy division?

7 MR. KOBRIN: Object to form.

8 THE WITNESS: During what time?

9 BY MR. HUDSON:

10 Q. During this 2013 to 2015 time period.

11 A. No.

12 Q. Who did Mr. Carlson report to?

13 A. During that time, Brett Merrell oversaw
14 pharmacy, I believe, as well, as well as Mark.

15 Q. And then as the category manager for
16 pharmacy, who reported up to you in the
17 organization?

18 MR. KOBRIN: Object to form.

19 THE WITNESS: During the time period of
20 when?

21 BY MR. HUDSON:

22 Q. August of 2013 to July of 2015.

23 A. There were several organizational
24 changes during that time, but it would have
25 been -- do you want names or positions?

1 Q. Yeah. Just explain to me what you
2 recall in terms how the organization was when you
3 came into that role and then, if you could, walk
4 through how it changed over time.

5 MR. KOBRIN: Object to form.

6 THE WITNESS: When I came into that
7 role, there was one person on our team Kris Remas,
8 who was a buyer. That team expanded to two
9 individuals that did what we called Rx quick
10 ordering which was getting specific products for
11 specific patients. And then Erin Hart joined the
12 team as well who supported me on the generics
13 piece.

14 BY MR. HUDSON:

15 Q. And as the category manager, were you
16 responsible for buying certain prescriptions or
17 all prescriptions, or how did that work?

18 MR. KOBRIN: Object to form.

19 THE WITNESS: I would have overseen the
20 pharmacy category.

21 BY MR. HUDSON:

22 Q. What does that mean? What does pharmacy
23 category mean?

24 A. That would have been all prescription
25 items as well as select over-the-counter items.

1 Q. And would that be true for all buying by
2 Giant Eagle from any manufacturer?

3 A. I don't understand.

4 Q. As the category manager for the
5 pharmacy, were you the one who was responsible for
6 overseeing the buying of these prescriptions and
7 over-the-counter medications from manufacturers?

8 MR. KOBRIN: Objection.

9 BY MR. HUDSON:

10 Q. Or what was your role?

11 MR. KOBRIN: Object to form.

12 THE WITNESS: Yes. I would have
13 overseen the team that did that.

14 BY MR. HUDSON:

15 Q. And that would have included the
16 purchasing of opioids?

17 A. During that time, yes.

18 Q. And did Giant Eagle or HBC buy directly
19 from the manufacturers of certain opioids?

20 MR. KOBRIN: Object to form.

21 THE WITNESS: Yes.

22 BY MR. HUDSON:

23 Q. Did that include hydrocodone combination
24 products?

25 A. Yes.

1 Q. Were the contracts between Giant Eagle
2 or HBC and the opioid manufacturers, did those
3 include rebates?

4 MR. KOBRIN: Object to form.

5 THE WITNESS: I don't recall the
6 specifics.

7 BY MR. HUDSON:

8 Q. Do you know what a rebate is?

9 A. That's a broad term. At the high level,
10 yes.

11 Q. What is a rebate?

12 A. It would be a payment after the purchase
13 of an item.

14 Q. So would it be a payment from who to
15 who?

16 A. From the seller to the buyer.

17 Q. And how would you obtain a rebate?

18 MR. KOBRIN: Object to form.

19 BY MR. HUDSON:

20 Q. In other words, how would the buyer
21 become eligible to obtain a rebate from the
22 seller?

23 A. It would depend on the situation. If
24 you purchased the item.

25 Q. So were they set up where if you were

1 able to purchase a certain volume of a drug, that
2 may entitle you to rebates from the seller?

3 A. I don't remember specifics about those.

4 Q. Do you remember anything generally about
5 that, how the rebates worked?

6 A. Rebates with respect to pharmacy
7 sourcing?

8 Q. Yeah, and specifically opioids. In
9 other words, the relationship and the buying
10 between Giant Eagle or HBC and the opioid
11 manufacturers.

12 MR. KOBRIN: Object to form.

13 THE WITNESS: No.

14 BY MR. HUDSON:

15 Q. Were rebates something that Giant Eagle
16 or HBC was focused on trying to obtain?

17 MR. KOBRIN: Object to form.

18 THE WITNESS: I mean, we would have
19 purchased the item with the least net cost.

20 BY MR. HUDSON:

21 Q. Right. And rebates would be one way to
22 reduce the net cost of the purchase; right?

23 A. It could be, yes.

24 Q. Was that something that you -- in your
25 role as the category manager of pharmacy, is that

1 something that you were focused on, ways to reduce
2 the net cost of opioid purchases?

3 A. Not specific to opioids, but all items.

4 Q. Were there ever discussions or
5 strategies on how to maximize the use of rebates
6 to reduce the net purchasing cost of opioids or
7 other drugs?

8 MR. KOBRIN: Object to form.

9 THE WITNESS: Yes.

10 BY MR. HUDSON:

11 Q. And were you involved in those
12 discussions?

13 A. Yes.

14 Q. And were rebates one of the strategies
15 that Giant Eagle tried to use to reduce the net
16 purchasing cost for opioids?

17 MR. KOBRIN: Object to form.

18 THE WITNESS: We would have looked at
19 all opportunities, so all ways to bring our net
20 cost down.

21 BY MR. HUDSON:

22 Q. In addition to rebates, what are some
23 other ways that Giant Eagle or HBC could bring its
24 net costs down?

25 A. Competitive bidding.

1 Q. Anything else?

2 A. That would be the main driver, is
3 competitive bidding.

4 Q. I want to shift gears and focus in on
5 suspicious order monitoring. I think you
6 testified it's your understanding that's one of
7 the obligations for distributors under the
8 Controlled Substances Act.

9 MR. KOBRIN: Object to form. Misstates
10 testimony.

11 THE WITNESS: It's part of the
12 requirements, yes.

13 (HBC-Bianco Exhibit 2 was marked.)

14 BY MR. HUDSON:

15 Q. Let me hand you what I've marked as
16 Exhibit 2.

17 MR. HUDSON: On Exhibit 2, the internal
18 number is 1162.

19 BY MR. HUDSON:

20 Q. I will represent to you, Mr. Bianco,
21 that this email was the first email that I could
22 find where you were on emails or had involvement
23 with suspicious order monitoring. I'll give you a
24 minute to read that.

25 My first question is going to be: Do you

1 recall having any involvement in suspicious order
2 monitoring prior to this time in September of
3 2013?

4 MR. KOBRIN: Object to form. Assumes
5 facts not in evidence.

6 THE WITNESS: Can you repeat the
7 question.

8 BY MR. HUDSON:

9 Q. Sure. This email chain, and I'm going
10 to start with the first email which is on the
11 second page, it's from Greg Carlson to you and
12 Allen Lowther with a copy to Kris Remas, dated
13 September the 9, 2013. Do you see that email?

14 A. Yes.

15 Q. And the subject is Controls at HBC;
16 right?

17 A. Correct.

18 Q. And then in the body of this email,
19 Mr. Carlson is talking about HBC's efforts to
20 address suspicious order monitoring to meet the
21 federal requirements of 21 CFR 1301.74(b); right?

22 A. Say that again. I'm sorry.

23 Q. Sure. In the body of this email,
24 Mr. Carlson is talking about HBC's handling of
25 suspicious order monitoring to meet federal

1 requirements of 21 CFR 1301.74(b). Do you see
2 that?

3 A. I do not. I see that he cites it.

4 Q. Well, we'll go through the email in a
5 minute. My question thought before we get into
6 the email is just: Do you have any recollection
7 of having any involvement with suspicious order
8 monitoring prior to September of 2013?

9 MR. KOBRIN: Object to form. Assumes
10 facts not in evidence.

11 THE WITNESS: No.

12 BY MR. HUDSON:

13 Q. Did you have any knowledge prior to
14 September of 2013 of what efforts HBC was taking
15 to monitor suspicious orders of controlled
16 substances?

17 A. I don't know.

18 Q. To the best of your recollection, as you
19 sit here today, do you have any idea when you
20 first learned about suspicious order monitoring?

21 MR. KOBRIN: Object to form.

22 THE WITNESS: I think I mentioned
23 earlier I don't know when I became familiar with
24 some of the regs, whether it was through school or
25 through work.

1 BY MR. HUDSON:

2 Q. Do you know why Mr. Carlson copied you
3 on this email in September of 2013?

4 A. I don't, no.

5 Q. Let's go through this. Do you think
6 that you read this email when you received it?

7 A. Yes.

8 Q. So Mr. Carlson wrote, "Mike and Allen, I
9 would like to explore our options around sourcing
10 controls other than HBC. Here are the options I'm
11 thinking."

12 Do you know what he meant by that?

13 A. That he wanted to look for sourcing
14 options for controlled substances.

15 Q. So at this point in time in September of
16 2013, was Mr. Carlson contemplating HBC no longer
17 acting as a distributor for controlled substances?

18 MR. KOBRIN: Object to form. Calls for
19 speculation.

20 THE WITNESS: I don't know what he was
21 presuming at that time.

22 BY MR. HUDSON:

23 Q. On down at the bottom of his email, he
24 said, "I can talk to each of you in person for
25 more details."

1 Do you see that?

2 A. I do.

3 Q. Do you have a recollection of talking to
4 Mr. Carlson about the controls at HBC at this time
5 period in September of 2013?

6 A. Not -- no, not on this particular
7 occasion.

8 Q. Do you have any recollection of this
9 email?

10 A. No.

11 Q. Mr. Carlson wrote, "Here on the options
12 I'm thinking. 1. Run all controls currently at
13 HBC through McKesson with indirect contracts."
14 Right?

15 A. Correct.

16 Q. What does that mean?

17 MR. KOBRIN: Object to form.

18 THE WITNESS: An indirect contact would
19 be a contract that's loaded through your
20 wholesaler that rebates the drug down to a lower
21 net cost.

22 BY MR. HUDSON:

23 Q. So who was act as the distributor of
24 controlled substances if you went with option one?

25 MR. KOBRIN: Object to form.

1 Speculation.

2 THE WITNESS: According to this,

3 McKesson.

4 BY MR. HUDSON:

5 Q. So option one would involve HBC no
6 longer acting as a distributor of controlled
7 substances. Instead McKesson would become the
8 distributor through indirect contracts?

9 A. Correct.

10 MR. KOBRIN: Object to form.

11 BY MR. HUDSON:

12 Q. Then number two says, "Give McKesson all
13 of our control volume and have them bid on the
14 whole bucket. How much would we lose giving this
15 all to McKesson?"

16 Is option two the idea that HBC would no
17 longer act as the distributor and McKesson would
18 be the distributor for all controlled substances,
19 and they would also have the direct contracts with
20 the manufacturers?

21 MR. KOBRIN: Object to form.

22 THE WITNESS: I believe.

23 BY MR. HUDSON:

24 Q. And then his question is: How much
25 would we lose giving this all to McKesson; right?

1 A. That's what it states.

2 Q. Is that something that you looked into?

3 A. I don't -- I don't recall.

4 Q. Do you know whether someone looked into
5 that?

6 A. I don't know.

7 Q. Do you know whether or not anyone at
8 Giant Eagle or HBC ever determined how much the
9 organization would lose giving all of the
10 controlled substances to McKesson?

11 A. In September of 2013?

12 Q. In this timeframe.

13 A. I don't remember.

14 Q. Let's go to option three then, "Utilize
15 Anda as a virtual warehouse for controls. We can
16 use the current HBC transmission logic and just
17 send that EDI order over to Anda to fill for
18 controls only."

19 Do you understand what that means?

20 MR. KOBRIN: Object to form. Misstates
21 the evidence. Speculative.

22 THE WITNESS: Not in detail, no.

23 BY MR. HUDSON:

24 Q. Do you have a general understanding of
25 what he's talking about as option three?

1 A. Yes.

2 Q. How would a virtual warehouse work?

3 A. I don't know those particulars.

4 Q. In general, what's your understanding of
5 how option three would work?

6 A. Just reading what he says, we would
7 transmit our order to Anda and they would fill the
8 orders. But any other details beyond that, I
9 don't know. I'm not familiar with the virtual
10 warehouse.

11 Q. Down below do you see Mr. Carlson writes
12 two individual notes to Allen and Kris?

13 A. Yes.

14 Q. The first one to Allen says, "Can you
15 reach out to Eric at HEB and ask him how they
16 handle suspicious order monitoring to meet federal
17 requirements (Title 21 CFR 1301.74(b)). Do they
18 have a way to block orders if they go over their
19 monthly limit."

20 Do you see that?

21 A. I do.

22 Q. At this point in time in September of
23 2013, did you have any knowledge about how HBC
24 handled suspicious order monitoring to meet
25 federal requirements of 21 CFR 1301.74(b)?

1 A. I think I stated I know we had physical
2 barriers, but the day-to-day operations I wasn't
3 familiar with.

4 Q. Do you know whether or not at this time
5 in September of 2013 HBC did any monitoring of
6 controlled substances to look for suspicious
7 orders?

8 MR. KOBRIN: Object to form. Asked and
9 answered.

10 THE WITNESS: I do not.

11 BY MR. HUDSON:

12 Q. At this point in time in September of
13 2013, did you have any knowledge specifically of
14 the requirements of 21 CFR 1301.74(b)?

15 MR. KOBRIN: Object to form.

16 THE WITNESS: I would need to see what
17 specifically that is referencing. I don't know
18 the regs that well.

19 BY MR. HUDSON:

20 Q. Did you have any knowledge -- let me ask
21 it this way. I'll represent to you that's the
22 suspicious order monitoring subsection of the
23 Controlled Substances Act.

24 Was that something -- again, I'm just trying
25 to get an understanding of what you knew in

1 September of 2013.

2 Is that something that you dealt with or had
3 any familiarity with?

4 MR. KOBRIN: Object to form.

5 THE WITNESS: I may have learned it
6 through school or through work, but I don't
7 remember when I learned about it.

8 BY MR. HUDSON:

9 Q. Did you have -- up until this point in
10 September of 2013, did you have any role at Giant
11 Eagle or any other organization where you were
12 designing or implementing a suspicious order
13 monitoring system?

14 A. No.

15 Q. Did you have any role -- up through this
16 point in September of 2013, did you have any role
17 at any organization where you were executing on a
18 suspicious order monitoring system?

19 A. No.

20 Q. Then let's go to the next note from
21 Mr. Carlson to Kris. He said, "Can you ask Val if
22 Biceps or DCOPS has any functionality that would
23 allow us to block a store from order of product in
24 a certain subgroup? If a store hit a threshold on
25 hydrocodone, could we go in and block that store

1 from ordering those products until the month
2 resets?"

3 Do you know what he meant by that --

4 MR. KOBRIN: Object to form.

5 BY MR. HUDSON:

6 Q. -- set of questions to Kris?

7 MR. KOBRIN: Object to form. Calls for
8 speculation.

9 THE WITNESS: I mean, I'm familiar with
10 biceps and DCOPS at a high level, that they were
11 our ordering systems.

12 BY MR. HUDSON:

13 Q. Biceps and DCOPS were the ordering
14 system that Giant Eagle or HBC used at that time?

15 A. I believe.

16 Q. Would it be -- was that the warehouse's
17 ordering system where they would order products
18 from particular manufacturers?

19 MR. KOBRIN: Object to form.

20 THE WITNESS: I don't recall which was
21 which, but I know one of those was used to order
22 from a manufacturer.

23 BY MR. HUDSON:

24 Q. And was the other one then used at the
25 retail level?

1 A. I'm not sure of the other one. I'm not
2 sure how they interfaced with each other.

3 Q. Tell me what you know just generally
4 about how the ordering system worked at HBC, at
5 the warehouse.

6 MR. KOBRIN: Object to form.

7 THE WITNESS: During this time?

8 BY MR. HUDSON:

9 Q. Yep.

10 A. A store would transmit an order to the
11 warehouse. The warehouse would pick and pack it,
12 generally speaking.

13 Q. So that would cover the relationship
14 between the warehouse and the individual retail
15 pharmacies; right?

16 MR. KOBRIN: Object to form.

17 THE WITNESS: Correct.

18 BY MR. HUDSON:

19 Q. Tell me what you know about the ordering
20 system as it relates to HBC acting as a
21 distributor and making orders from manufacturers.

22 A. Can you repeat that.

23 Q. Sure. I'm focusing specifically on HBC
24 as a distributor. Would HBC make orders directly
25 to manufacturers?

1 A. My team would, yes.

2 Q. Your team would?

3 A. On behalf of them.

4 Q. Was that a computerized process? In
5 other words, did you have a computer system you
6 used to make those orders?

7 A. They were manually keyed in, yes, into a
8 system.

9 Q. What was the name of that system?

10 A. I don't recall.

11 Q. Was that one Biceps or DCOPS?

12 MR. KOBRIN: Object to form.

13 THE WITNESS: It may have been.

14 BY MR. HUDSON:

15 Q. Do you know whether or not at this time,
16 in September of 2013, the HBC warehouse had the
17 functionality that would allow HBC to block a
18 store from ordering a product in a certain
19 subgroup?

20 MR. KOBRIN: Object to form.

21 THE WITNESS: I do not.

22 BY MR. HUDSON:

23 Q. Do you know at this time whether or not
24 HBC had the ability to block orders to a retail
25 pharmacy if those orders would hit or exceed a

1 certain threshold?

2 MR. KOBRIN: Object to form.

3 THE WITNESS: I read in the email, but I
4 did not know. I do not know.

5 BY MR. HUDSON:

6 Q. That's not something you knew one way or
7 the other how the warehouse operated?

8 A. I don't recall. I didn't get into the
9 day to day, like I said.

10 Q. Do you know whether or not at this time
11 in September of 2013, Mr. Carlson was focused on
12 trying to address the monitoring of controlled
13 substances at the HBC warehouse?

14 MR. KOBRIN: Object to form. Calls for
15 speculation.

16 THE WITNESS: I can't speculate on what
17 he was attempting to do here. It could have been
18 many things.

19 BY MR. HUDSON:

20 Q. Does this email refresh your
21 recollection in any way about this particular
22 topic that we've been talking about?

23 A. No.

24 Q. Do you remember whether you or others
25 had conversations with Mr. Carlson at this time or

1 later about the monitoring that was occurring at
2 the HBC warehouse?

3 A. No.

4 Q. At any point in time, did you come to
5 learn more about how the HBC warehouse monitored
6 controlled substances for suspicious orders.

7 A. Yes.

8 Q. What timeframe was that when you learned
9 more?

10 A. I'm not sure of specific dates, but it
11 would have been after that. I know I was informed
12 on orders when they would be blocked or stopped at
13 the warehouse or investigated, and that was on the
14 rare occasion that I would be included.

15 Q. And specifically what do you recall
16 about that?

17 A. Just that they happened. I didn't get
18 into the operations of the warehouse.

19 Q. Do you have a recollection of how many
20 times orders were stopped at the warehouse?

21 MR. KOBRIN: Object to form.

22 THE WITNESS: I don't, no.

23 BY MR. HUDSON:

24 Q. Do you have any recollection of how many
25 times suspicious orders were investigated by HBC?

1 A. I don't know.

2 Q. Do you have any knowledge about the
3 criteria that was applied at the warehouse to try
4 to determine whether an order was suspicious?

5 A. No.

6 Q. And were all of those answers be true
7 from 2009 until today, meaning even today you
8 don't have knowledge about when orders are blocked
9 or criteria that are applied to conduct
10 investigations or any of the other day-to-day
11 events that occur at the HBC or Giant Eagle
12 warehouse?

13 MR. KOBRIN: Excluding any information
14 that you may have learned from any counsel that
15 you talked to.

16 THE WITNESS: No. I mean, yes, those
17 are true. I'm not familiar with those.

18 BY MR. HUDSON:

19 Q. If we turn now back to the first page of
20 this email, I'm guessing that -- it seems like
21 you're copied on these emails but were not
22 directly involved in trying to figure out any of
23 the solutions or drill down on what any of these
24 other companies were doing; is that fair?

25 A. Correct.

1 Q. Other than just sitting here and reading
2 this email, you don't have any recollection of
3 anything that occurred during this time period
4 relating to how HBC was going to handle controlled
5 substances or monitor controlled substances?

6 A. Correct.

7 (HBC-Bianco Exhibit 3 was marked.)

8 BY MR. HUDSON:

9 Q. I'll hand you what I've marked as
10 Exhibit 3.

11 MR. HUDSON: And Exhibit 3, the internal
12 number is 1052.

13 BY MR. HUDSON:

14 Q. Mr. Bianco, my question is: Do you
15 recognize what we've marked as Exhibit 3?

16 A. No.

17 Q. Have you ever heard -- other than the
18 with discussions with counsel, have you ever heard
19 the phrase daily threshold reports?

20 A. No, not that I remember.

21 (HBC-Bianco Exhibit 4 was marked.)

22 BY MR. HUDSON:

23 Q. I'll hand you what I've marked as
24 Exhibit 4.

25 MR. HUDSON: Exhibit 4, the internal

1 number is 1177.

2 BY MR. HUDSON:

3 Q. Mr. Bianco, Exhibit 4 is an email with
4 an attachment with some meeting minutes, and you
5 are not copied on the email it doesn't look like
6 to me. But if you turn to the second page, in the
7 last paragraph, you are referenced as -- your name
8 is there in the sentence that says, "Anthony
9 Mollica would be the registrant. Joe Millward and
10 George Chunderlik will be coordinators and then
11 potentially Mike Bianco and Greg Carlson as POAs."

12 Do you have any recollection of these meeting
13 minutes or what it meant by POA?

14 A. No.

15 Q. Do you have any recollection of reading
16 these meeting minutes?

17 A. I have not had a chance to read them,
18 no.

19 MR. KOBRIN: I want to note for the
20 record that I know you already noted that he's not
21 on the email, but he's also not listed among the
22 attendees at this meeting even though there's
23 reference in the minutes.

24 BY MR. HUDSON:

25 Q. Mr. Bianco, have you had a chance to

1 look at the minutes?

2 A. Just page 1, yes.

3 Q. In general, do you remember attending a
4 meeting where Anda gave an explanation of the
5 controlled substance online source, or CSOS I
6 think sometimes it's referred to, software?

7 MR. KOBRIN: Object to form. He's not
8 listed on the minutes as having been one of the
9 attendees.

10 THE WITNESS: I would have seen the
11 software, but not -- I don't know in what format.

12 BY MR. HUDSON:

13 Q. Do you know whether or not you attended
14 any meetings relating to the implementation of the
15 CSOS or C-S-O-S software?

16 A. I don't recall. I don't remember the
17 specifics on how that worked.

18 Q. Do you have any knowledge about any of
19 the functionality of this CSOS software?

20 A. Yes.

21 Q. Do you have any knowledge about how the
22 software works in particular as it relates to
23 monitoring of orders from a supplier to a
24 wholesaler?

25 A. Not specifics.

1 Q. Do you know whether or not the software
2 had any functionality that allowed Giant Eagle or
3 HBC to in an automated way stop or block
4 particular shipments?

5 A. I do not, no.

6 Q. Is this document something that you
7 believe you saw at any time?

8 A. The meeting minutes in particular?

9 Q. Yes.

10 A. I don't -- I don't know.

11 Q. How about, if you look, I think one of
12 the things that's contained within these meeting
13 minutes are just some explanations of the
14 functionality of the software.

15 Do you know whether or not that's something
16 that you would have reviewed at any point in time?

17 A. I don't recall.

18 Q. If you look at page 2 of the minutes, on
19 the top you see in bold it says Red Flag?

20 A. Yes.

21 Q. Then it says CII Limits/Month, and then
22 there's an explanation in the next two paragraphs.
23 Is that anything you have any familiarity with?

24 A. No.

25 Q. Do you know when Giant Eagle implemented

1 the CSOS or C-S-O-S software?

2 A. Yes. It was while I was in the category
3 manager position, but I don't know the exact date.

4 Q. Do you know if it was in 2015?

5 A. I don't recall.

6 (HBC-Bianco Exhibit 5 was marked.)

7 BY MR. HUDSON:

8 Q. I'll hand you what I've marked as
9 Exhibit 5. I'm just going to ask you if you
10 recognize that document.

11 A. No.

12 Q. In references to the previous email
13 chain, we looked at the email chain in September
14 of 2013 from Greg Carlson to you and a couple of
15 other gentlemen. Do you remember that email?

16 A. Yes.

17 Q. And at that point in time, I believe you
18 indicated that Mr. Carlson was talking about HBC
19 potentially no longer distributing controlled
20 substances but instead having Anda or McKesson
21 handle that.

22 MR. KOBRIN: Object to form.

23 BY MR. HUDSON:

24 Q. Do you remember the options that we
25 talked about, option one, option two and option

1 three?

2 A. I do.

3 Q. Now we're going to turn to this email
4 that we've marked as Exhibit 5. And this is in
5 November of 2013; right?

6 A. Yes.

7 Q. And the top email is from Mr. Carlson to
8 you with a forward of the subject Controlled
9 Substance Suspicious Monitoring; right?

10 A. Yes.

11 Q. Do you know why Mr. Carlson forwarded
12 that email to you?

13 MR. KOBRIN: Object to form. Calls for
14 speculation.

15 THE WITNESS: I do not.

16 BY MR. HUDSON:

17 Q. Do you know whether or not you attended
18 a meeting around this time on the topic of
19 controlled substance suspicious monitoring?

20 A. Yes.

21 Q. Do you have any knowledge of any of the
22 discussions that were occurring at Giant Eagle in
23 November of 2013 relating to controlled substance
24 suspicious monitoring?

25 A. I don't recall. I was still in school

1 at this time.

2 Q. If we go down to the bottom email, it
3 looks like it's a meeting invite. Is that what it
4 looks like to you?

5 A. It appears to be.

6 Q. And that's a meeting that's going to
7 take place at Century 3. Is that a room or
8 building at the Giant Eagle campus?

9 A. It's an office or a meeting room.

10 Q. And it looks like the two topics for
11 discussion, number one is discussion of the
12 process developed for identifying pharmacies
13 ordering excessive controlled substances, and then
14 number two is discussion of the monitoring and
15 steps to be taken when a pharmacy appears on the
16 above list. Do you see that?

17 A. I do.

18 Q. Do you know whether or not Giant Eagle
19 or HBC developed a process for identifying
20 pharmacies ordering excessive controlled
21 substances?

22 A. I know we had one in place, but I don't
23 know when it was developed or any of the specifics
24 around it.

25 Q. Do you know who developed it?

1 A. I do not.

2 Q. Do you know why it was developed?

3 A. I don't. I don't know. I would be
4 speculating if I answered that.

5 Q. Did you have any involvement at all in
6 the development of the process?

7 A. No, not that I recall.

8 Q. Do you know what steps were to be taken
9 when a pharmacy appeared on the above list of
10 pharmacies ordering excessive controlled
11 substances?

12 MR. KOBRIN: Object to form.

13 THE WITNESS: I don't know what list
14 but, no, I wasn't involved in the day-to-day
15 operations.

16 BY MR. HUDSON:

17 Q. I assume then to the best of your
18 knowledge, you don't have any recollection of
19 attending that meeting?

20 A. I don't, no.

21 MR. KOBRIN: Do you want to take a break
22 after this exhibit?

23 MR. HUDSON: If you need to.

24 MR. KOBRIN: Do you want to take a
25 break?

1 THE WITNESS: Yeah.

2 MR. KOBRIN: Do you want to take a break
3 now?

4 THE WITNESS: We can finish this.

5 MR. HUDSON: Now is as good a time as
6 any. We can go off the record.

7 THE VIDEOGRAPHER: The time is
8 10:11 a.m. We're off the video record.

9 (Recess from 10:12 a.m. to 10:25 a.m.)

10 THE VIDEOGRAPHER: The time is
11 10:25 a.m. We are now back on the video record.

12 (HBC-Bianco Exhibit 6 was marked.)

13 BY MR. HUDSON:

14 Q. Mr. Bianco, I'm handing you what I've
15 marked as Exhibit 6, and as you can see, we're
16 just walking through in time. So we're up to
17 December of 2013 here.

18 At this point in time, had you completed
19 pharmacy school?

20 A. No.

21 Q. December of 2013.

22 A. I graduated like mid December of 2013.

23 Q. So you're nearing the end of pharmacy
24 school at this point --

25 A. Within weeks.

1 Q. -- in December of 2013?

2 A. Yes.

3 Q. Take a minute, if you would, to look at
4 this email chain.

5 (Witness reviewed the exhibit.)

6 THE WITNESS: Okay.

7 BY MR. HUDSON:

8 Q. Have you had a chance to review the
9 email chains?

10 A. Yes.

11 Q. So the bottom email that spans onto the
12 second page is from you to Matt Rogos, Christy
13 Hart and some others; right?

14 A. Correct.

15 Q. And then a copy to Joseph Millward, Greg
16 Carlson and Shawn Voyten, and the subject is
17 Pharmacy 2401 Do Not Send item 00187393; right?

18 A. Correct.

19 MR. KOBRIN: Object to form.

20 BY MR. HUDSON:

21 Q. Do you have any recollection of what was
22 happening at this time in December of 2013 when
23 you sent this email?

24 MR. KOBRIN: Object to form.

25 THE WITNESS: Other than what I've read

1 today, no.

2 BY MR. HUDSON:

3 Q. Do you know why you were sending an
4 email at this time to the HBC team?

5 MR. KOBRIN: Object to form.

6 THE WITNESS: Other than what I read
7 here, no.

8 BY MR. HUDSON:

9 Q. And here you wrote, "HBC team, Can you
10 please be sure pharmacy 2401 does not receive item
11 00187393, buprenorphine, 8 milligram SL tab, until
12 further notice. Pharmacy 2401's ordering of this
13 product has been flagged as suspicious and are
14 being reported to the DEA."

15 Did I read that right?

16 A. Yes.

17 Q. Do you know who flagged the order as
18 suspicious?

19 A. I don't recall.

20 Q. Do you know why the order was flagged as
21 suspicious?

22 A. No.

23 Q. Do you know the monitoring system at HBC
24 worked at this time?

25 A. Other than orders were sometimes

1 stopped, no.

2 Q. Do you know who decided that this order
3 should be reported to the DEA?

4 A. No.

5 Q. Do you know the criteria that were
6 applied to decide to report this order to the DEA?

7 A. No.

8 Q. In the next paragraph you wrote, "Please
9 print this communication and begin keeping a file
10 for suspicious orders that have been identified
11 and the steps taken to address these orders."

12 Did I read that right?

13 A. Yes.

14 Q. Was that a request that you were making
15 to Mr. Rogos, Ms. Hart and the others that are
16 listed on this email chain?

17 A. That's how it reads, yes.

18 Q. And why were you asking that they begin
19 keeping a file for suspicious orders that have
20 been identified and the steps taken to address
21 these orders?

22 A. I don't recall.

23 Q. Was it your hope and expectation that
24 HBC or others in the Giant Eagle organization
25 would begin keeping a file for suspicious orders

1 that have been identified and steps taken to
2 address these orders?

3 MR. KOBRIN: Object to form.

4 THE WITNESS: I don't remember.

5 BY MR. HUDSON:

6 Q. Do you know whether or not the people on
7 this email followed your request to start keeping
8 a file for suspicious orders that have been
9 identified?

10 A. I don't know. This was pretty much the
11 extent of my involvement in this process.

12 Q. But you do agree that you were asking
13 the team to start keeping a file for suspicious
14 orders that have been identified and the steps
15 taken to address these orders; right?

16 MR. KOBRIN: Object to form.

17 THE WITNESS: That's what it reads.

18 BY MR. HUDSON:

19 Q. And do you know whether or not someone
20 on the team did print this communication from you
21 to them?

22 MR. KOBRIN: Object to form. Asked and
23 answered.

24 THE WITNESS: I don't recall.

25

1 BY MR. HUDSON:

2 Q. Then down in the next paragraph, it
3 says, "We will be taking a two-pronged approach
4 for this order. One, stopping the shipment of the
5 order and reporting it" -- sorry. Let me start
6 over.

7 "We'll be talking a two-pronged approach for
8 this order, stopping the shipment of the order and
9 reporting it to the DEA as well as having a
10 corporate staff member investigate the usage and
11 determine the causation of the suspicious order."

12 Do you know why you wrote this to the team at
13 the time?

14 A. I don't recall.

15 Q. Do you know how you came to decide on
16 this two-pronged approach?

17 A. I don't recall.

18 Q. Do you have any independent recollection
19 of any discussions with anyone around this time
20 about suspicious order monitoring?

21 A. No.

22 Q. At this time in December of 2013, did
23 you have regular communications with Mr. Millward,
24 Mr. Chunderlik or others about suspicious order
25 monitoring, or was this, to the best of your

1 recollection, kind of an isolated email?

2 MR. KOBRIN: Object to form.

3 THE WITNESS: I don't remember. I would
4 get emails similar letting me know that orders
5 were stopped, but that's about it.

6 BY MR. HUDSON:

7 Q. Do you know why you were getting the
8 emails?

9 A. I was -- a lot of it was just
10 informational, but I was a point of contact for
11 HBC.

12 Q. Did you have an understanding one way or
13 the other of whether or not orders that were
14 exceeding thresholds were being stopped by the HBC
15 warehouse?

16 A. I knew that orders were being stopped,
17 but I don't know why. I don't recall why, why or
18 kind of the reasoning.

19 Q. It was your understanding or belief that
20 the HBC warehouse was actually stopping the
21 physical shipment of orders that had been flagged?

22 MR. KOBRIN: Object to form.

23 THE WITNESS: Sometimes they would.

24 BY MR. HUDSON:

25 Q. Do you know how many times?

1 A. I don't.

2 Q. Do you know when?

3 A. It would have been during the -- if they
4 did, it would have been during their nightly
5 order.

6 Q. Other than this particular order that
7 we've been discussing in this email, are you aware
8 of any other specific orders that you know of that
9 were stopped by the HBC warehouse?

10 A. Yes.

11 Q. Which other orders are you aware of?

12 A. There are others that are not opioids,
13 that are -- any time there would be what are
14 called a conversion factor, those would be
15 stopped. It happened occasionally.

16 Q. Would a conversion factor -- does that
17 have anything to do with shipments that are at
18 risk of diversion or suspicious orders?

19 MR. KOBRIN: Object to form.

20 THE WITNESS: I don't know.

21 BY MR. HUDSON:

22 Q. What is a conversion factor?

23 A. It's used in our system that -- I'm
24 trying to think of an easy way to explain it.
25 This is a poor example, but if you have a bottle

1 of a hundred, and you want to order one bottle of
2 a hundred, do you order one or do you order a
3 hundred, and that conversion factor helps the
4 systems to talk to know if you get one bottle
5 or -- if the intent was to order one bottle or one
6 tablet. So it's really a way the dispensing
7 system can talk to an ordering system.

8 Q. So are you saying that if the conversion
9 factor -- if there's an error, you meant to order
10 one bottle of a hundred pills but instead you
11 ordered a hundred bottles of a hundred pills, then
12 that would be an order that would be stopped?

13 A. It could be, yes.

14 Q. That's different than an order being
15 suspicious because it's at risk of diversion;
16 right?

17 MR. KOBRIN: Object to form.

18 THE WITNESS: I didn't deal with any of
19 the investigations or anything. So I don't know.
20 I can't really answer that.

21 BY MR. HUDSON:

22 Q. What criteria were applied by the
23 warehouse to stop orders because of a conversion
24 factor issue?

25 A. I don't know.

1 Q. To your knowledge, what types of
2 shipments or when were shipments stopped because
3 of a conversion factor issue?

4 A. I don't know details, but generally
5 conversion factors are not on every item. So your
6 oral solids tend to not have those. Usually it's
7 an injectable, any type of medication that doesn't
8 come in like a round milliliter. Not every item
9 has it. Like a flu shot you would get half an ML
10 dose. So that would have a conversion factor on
11 it.

12 Q. Am I correct though that orders that
13 were stopped because of a conversion factor issue,
14 that's a different issue than an order that's at
15 risk for diversion because of it being a
16 suspicious order?

17 MR. KOBRIN: Object to form. Asked and
18 answered. Conclusory.

19 THE WITNESS: It could be.

20 BY MR. HUDSON:

21 Q. Give me an example of when an order that
22 was stopped because of a conversion factor issue
23 would also involve a suspicious order that's at
24 risk of diversion?

25 MR. KOBRIN: Object to form.

1 THE WITNESS: I don't know. I didn't do
2 any of the investigations on suspicious orders.
3 So all I would know is that an order was stopped.

4 BY MR. HUDSON:

5 Q. Would you know why the order was
6 stopped?

7 A. No.

8 Q. Would you know who decided to stop the
9 order?

10 A. Yes.

11 Q. And how would you know that?

12 A. Because whoever told me they stopped it.

13 Q. I mean, was there a systematic process
14 in place where each and every time an order was
15 stopped at the HBC warehouse, we need to let Mike
16 Bianco or his team know?

17 MR. KOBRIN: Object to form.

18 THE WITNESS: I was not the -- no, not
19 for every order, no.

20 BY MR. HUDSON:

21 Q. So whether an order was stopped or not,
22 it's not something you know one way or the other
23 in a comprehensive way?

24 MR. KOBRIN: Object to form.

25 THE WITNESS: Correct.

1 (HBC-Bianco Exhibit 7 was marked.)

2 BY MR. HUDSON:

3 Q. I'm going to hand you, Mr. Bianco, what
4 I've marked as Exhibit 7. This is an email chain.
5 We're into January of 2014.

6 MR. HUDSON: Our internal number is
7 1219.

8 BY MR. HUDSON:

9 Q. Let me know when you've had a chance to
10 review that.

11 (Witness reviewed the exhibit.)

12 THE WITNESS: Okay.

13 BY MR. HUDSON:

14 Q. What is Exhibit 7?

15 A. It appears to be an email communication.

16 Q. Do you know why Kayla Voelker initiated
17 this email communication?

18 MR. KOBRIN: Object to form.
19 Misrepresents the evidence.

20 THE WITNESS: No, other than the
21 subject.

22 BY MR. HUDSON:

23 Q. And what is the subject of her email?

24 A. Daily HBC suspicious purchasing report
25 and the date.

1 Q. And do you know what that means, daily
2 HBC suspicious purchasing report?

3 A. I could speculate, but I don't know what
4 that report is.

5 Q. On the first email, you are not copied
6 on that email; right?

7 A. Correct.

8 Q. And then the next email appears to be
9 from Mr. Millward to Todd Roahrig. And now you
10 are copied on Mr. Millward's email; correct?

11 A. Yes.

12 Q. Do you know why he copied you into his
13 email?

14 MR. KOBRIN: Object to form.

15 THE WITNESS: No.

16 BY MR. HUDSON:

17 Q. Who is Todd Roahrig?

18 A. Todd is a pharmacy district leader.

19 Q. You sometimes call those PDLs?

20 A. Yes.

21 Q. So he was a PDL?

22 A. Yes.

23 Q. So he, Mr. Millward, is letting the PDL
24 know that store 8 had been flagged for hitting
25 their threshold for total hydrocodone products;

1 right?

2 A. That's how it reads, yes.

3 Q. And then if we go up to the next email,
4 we've got the PDL, Todd, writing back to
5 Mr. Millward and yourself and the others; right?

6 A. Yes.

7 Q. And he's writing back there. Is he
8 giving an explanation for why he believes this
9 particular order is large in size?

10 MR. KOBRIN: Object to form.

11 THE WITNESS: It appears to be.

12 BY MR. HUDSON:

13 Q. And is the explanation that it's flu
14 season?

15 MR. KOBRIN: Object to form.

16 THE WITNESS: No.

17 BY MR. HUDSON:

18 Q. What's the reason for why the order to
19 quantity is what it is?

20 A. The way it reads is -- do you want me to
21 read the email?

22 Q. Sure.

23 A. Renee replied that she has had a ton of
24 scripts for this and a lot of Os due to cough and
25 cold season, and this is a particular choice of

1 syrup for a prescriber there, I believe.

2 So it appears to be prescribers' habits for
3 cough and cold.

4 MR. KOBRIN: Can you just finish your
5 answer.

6 THE WITNESS: Sure. It continues. "I
7 don't have details but assuming 8 ounces is a
8 typical Rx, that's only 34 scripts, so not
9 probably unreasonable at their volume."

10 BY MR. HUDSON:

11 Q. Mr. Carlson wrote back to you, "I
12 thought flu did not impact our numbers." Correct?

13 A. Correct.

14 Q. Is this an example of an order that was
15 flagged as being potentially suspicious?

16 A. It appears to be.

17 Q. So in Exhibit -- if we go back to your
18 email in Exhibit 6, would this be -- would your
19 email directed to the team where you wrote,
20 "Please print this communication and begin keeping
21 a file for suspicious orders that have been
22 identified and the steps taken to address these
23 orders," would Exhibit 7 be an example of an order
24 that was shipped where you had an expectation that
25 someone would begin keeping a file for orders like

1 this and the steps taken to address the orders?

2 MR. KOBRIN: Object to form.

3 Misrepresents the evidence.

4 THE WITNESS: No.

5 BY MR. HUDSON:

6 Q. This would not be an example of an order
7 that had been flagged?

8 A. This was. Based on the email chain, it
9 was flagged and investigated, but I don't -- I'm
10 only reading off the email, but it doesn't
11 identify it as suspicious. They identified a
12 reason for it.

13 Q. Well, let's look at Mr. Millward.
14 Mr. Millward was the compliance officer; right?

15 A. I don't know what his title was, but he
16 oversaw compliance.

17 Q. He oversaw compliance. He wrote to the
18 PDL. He said, "Store 8 is flagging as having hit
19 their threshold for total hydrocodone products.
20 Can you please check to see if this is an anomaly
21 or that the order should be considered
22 suspicious."

23 Right?

24 A. Yes.

25 Q. So he is trying to figure out whether

1 this is a suspicious order or not; right?

2 MR. KOBRIN: Object to form. Calls for
3 speculation.

4 THE WITNESS: He asked that question,
5 yes.

6 BY MR. HUDSON:

7 Q. Right. And so would this be an example
8 of where your expectation was that Giant Eagle or
9 HBC would begin keeping a file for suspicious
10 orders that have been identified and the steps
11 taken to address these orders?

12 MR. KOBRIN: Object to form. That
13 almost exact question has already been asked and
14 answered.

15 THE WITNESS: No. I didn't have any
16 expectations of their day-to-day operations.

17 BY MR. HUDSON:

18 Q. Let's go back then to Exhibit 6. What
19 did you mean when you wrote, "Please print this
20 communication and begin keeping a file for
21 suspicious orders that have been identified and
22 the steps taken to address these orders"?

23 A. I don't recall, but, again, this --
24 unless I'm missing part of this email, this wasn't
25 considered a suspicious order.

1 Q. Can we agree that in Exhibit 7, it was
2 an order that was flagged as being above the
3 threshold?

4 MR. KOBRIN: Object to forms.

5 THE WITNESS: Based on Joe's email, yes.

6 BY MR. HUDSON:

7 Q. Do you agree that a suspicious order is
8 an order of unusual size?

9 MR. KOBRIN: Object to form.

10 THE WITNESS: I don't know.

11 BY MR. HUDSON:

12 Q. When you said begin keeping a file for
13 suspicious orders, what did you have in mind as to
14 what a suspicious order would be?

15 MR. KOBRIN: Object to form. He's
16 already explained what he understood this to mean.

17 THE WITNESS: I don't really have -- I
18 don't know what our -- I don't recall really.

19 BY MR. HUDSON:

20 Q. Do you have any -- as you sit here
21 today, do you have any knowledge of what a
22 suspicious order is?

23 A. From being a pharmacist, yes.

24 Q. What is a suspicious order?

25 A. It would be an order that is -- my

1 understanding is that would be intended for
2 diversion or nonlegitimate purposes for that
3 order.

4 Q. And was the idea of HBC creating a
5 suspicious purchasing report to try to flag orders
6 that would be at risk for diversion?

7 MR. KOBRIN: Object to form. He's
8 already testified he doesn't know about the
9 suspicious purchasing report.

10 THE WITNESS: I don't know what the
11 purpose of this report is.

12 BY MR. HUDSON:

13 Q. But regardless of your definition, if we
14 go back to your email in Exhibit 6, in December of
15 2013, you did think it was a good idea for Giant
16 Eagle or HBC to start keeping a file?

17 MR. KOBRIN: Object to form.

18 BY MR. HUDSON:

19 Q. Right?

20 MR. KOBRIN: Object to form.

21 Misrepresenting his testimony.

22 THE WITNESS: I asked that -- in this
23 email, it looks like I asked that a file be
24 created.

25

1 BY MR. HUDSON:

2 Q. Right. And the file would be created
3 for suspicious orders that have been identified
4 and the steps taken to address these orders;
5 right?

6 A. That's how it reads, yes.

7 Q. Is there anything more that you can say
8 as you sit here today about what you had in mind
9 for what that file would look like?

10 A. No.

11 Q. Anything more you can say as you sit
12 here today as to why you thought it would be a
13 good idea to create such a file?

14 MR. KOBRIN: Object to form.

15 Misrepresents the evidence. He never talked about
16 this being a good idea. He admitted that it looks
17 like he sent the email.

18 THE WITNESS: Yes. I know that I sent
19 an email that says to create a file, but other
20 than that, I don't recall anything.

21 BY MR. HUDSON:

22 Q. Well, you did ask the file to be created
23 because you thought it was a good idea to create a
24 file; right?

25 MR. KOBRIN: Object to form.

1 Misrepresents the evidence -- his testimony.

2 Excuse me.

3 THE WITNESS: All I can say is that I
4 wrote an email that asked for a file to be
5 created.

6 BY MR. HUDSON:

7 Q. And if a file was created that had the
8 orders that had flagged as being suspicious and
9 the steps that were taken to resolve those orders,
10 then if we were setting here today and I asked you
11 the question which orders were flagged and what
12 was done to go and investigate those, we could
13 just go look at a file that was created and know
14 the answer to those questions; right?

15 MR. KOBRIN: Object to form. Calls for
16 speculation.

17 THE WITNESS: If a file was created, you
18 could reference that, yes.

19 BY MR. HUDSON:

20 Q. Right. And that would tell us which
21 orders had been flagged and what was done to go
22 and investigate those particular orders?

23 MR. KOBRIN: Object to form.

24 THE WITNESS: No. It would tell you
25 what orders were identified as suspicious, not

1 ones that were flagged.

2 BY MR. HUDSON:

3 Q. Right. So if the organization began
4 keeping a file for suspicious orders that have
5 been identified and the steps taken to address
6 these orders, which is what you wrote in your
7 email, then if we were sitting here today, we
8 would know which orders had been flagged as
9 suspicious and then the steps that had been taken
10 to go and address these orders; right?

11 MR. KOBRIN: Object to form. Ty,
12 you're --

13 BY MR. HUDSON:

14 Q. Is that fair?

15 MR. KOBRIN: Object to form. You're
16 mixing the verbs that are used here and the
17 definitions and you're saying it's flagged as
18 suspicious. The witness is clearly
19 differentiating between orders that are flagged
20 and orders that are identified as suspicious
21 orders.

22 MR. HUDSON: He's not testified to that
23 at all. If you want to testify to that, you're
24 welcome to. You can ask him whatever clarifying
25 questions you want. It's "Objection. Form." And

1 then you can go and clarify it.

2 MR. KOBRIN: I'm allowed to state my
3 reasons for the objection.

4 MR. HUDSON: You're not actually.

5 MR. KOBRIN: You're confusing the record
6 and you're confusing the witness.

7 MR. HUDSON: Your objection has been
8 noted and the witness can answer the question.

9 MR. KOBRIN: It has been noted, but I'd
10 rather you didn't interrupt me while I'm making
11 it. You're confusing the witness and I'd rather
12 you didn't confuse the issues here or at least --

13 MR. HUDSON: And I'd rather you not
14 coach the witness.

15 BY MR. HUDSON:

16 Q. Sir, am I reading you email correctly?
17 Did you write -- let's just go through it again,
18 start over. In your email, which we're on
19 Exhibit 6 and we're in the second paragraph, you
20 said, "Please print this communication and begin
21 keeping a file for suspicious orders that have
22 been identified and the steps taken to address
23 these orders."

24 What did you have in mind for what that file
25 would look like?

1 MR. KOBRIN: Object to form. Asked and
2 answered.

3 THE WITNESS: I don't recall.

4 BY MR. HUDSON:

5 Q. Would there be -- did you have an
6 expectation that emails and communications like
7 what is in Exhibit 7 would be part of a file?

8 MR. KOBRIN: Object to form.

9 THE WITNESS: No.

10 BY MR. HUDSON:

11 Q. Why would Exhibit 6 be a communication
12 to print and keep, but Exhibit 7 would not?

13 MR. KOBRIN: Object to form. Asked and
14 answered.

15 THE WITNESS: I think I already alluded
16 to this was -- six was identified as suspicious.
17 Seven appears to be being investigated. Other
18 than what I read though, I don't know outcomes,
19 et cetera.

20 BY MR. HUDSON:

21 Q. In six that order was flagged as
22 suspicious, too; right?

23 MR. KOBRIN: Object to form.

24 THE WITNESS: Can you repeat that.

25

1 BY MR. HUDSON:

2 Q. Sure. Exhibit 6, that email, that's an
3 order that was flagged as suspicious; correct?

4 A. It was identified as suspicious.

5 Q. Right. And then it was investigated;
6 right?

7 MR. KOBRIN: Object to form.

8 THE WITNESS: Based on this email, it
9 looks like it had already been investigated.

10 BY MR. HUDSON:

11 Q. Right. So Exhibit 6 involves a shipment
12 of buprenorphine that has been flagged and then it
13 was investigated and then it was determined that
14 the shipment should be stopped and the DEA should
15 be contacted; correct?

16 MR. KOBRIN: Object to form.

17 THE WITNESS: That's how it reads.

18 BY MR. HUDSON:

19 Q. Now, if we look at Exhibit 7, this is
20 also a shipment that's been flagged. And then we
21 see the email chain that involved the
22 investigation; right?

23 A. If this is the full investigation, yes.

24 Q. And do you know if this is the full
25 investigation?

1 A. I do not.

2 Q. What you see on Exhibit 7, would this be
3 an example where an investigation was conducted
4 and it was determined that the order was not
5 suspicious?

6 MR. KOBRIN: Object to form. He's
7 already testified that he doesn't know the extent
8 of the investigations.

9 THE WITNESS: I don't know. I didn't
10 get involved in the investigation process.

11 BY MR. HUDSON:

12 Q. As a member of the Giant Eagle team
13 that's being copied here though, do you have an
14 opinion one way or the other of whether or not
15 this would be an order that had been determined to
16 be not suspicious?

17 MR. KOBRIN: Object to form.

18 THE WITNESS: I don't have an opinion,
19 no.

20 BY MR. HUDSON:

21 Q. Can we agree that Mr. Carlson was
22 raising questions to you privately about whether
23 it made sense that the flu would be a good
24 explanation for why this order quantity was what
25 it was?

1 A. Can you repeat that.

2 Q. Sure. The top email from Mr. Carlson to
3 you, is he there in that email questioning
4 privately to you whether it makes sense that flu
5 season would be an explanation for the quantity of
6 this order?

7 MR. KOBRIN: Object to form.

8 THE WITNESS: He wrote he thought flu
9 did not impact our numbers.

10 BY MR. HUDSON:

11 Q. And you agree that the PDL -- do you
12 agree that the PDL was explaining that a
13 particular prescriber was prescribing medication,
14 hydrocodone combination products due to the cough
15 or cold season?

16 A. That's what it states, yes.

17 Q. So in Exhibit 7, this email chain, do
18 you see any explanation for this particular order
19 from store 8 that would give you comfort that it
20 wasn't suspicious?

21 MR. KOBRIN: Object to form.

22 BY MR. HUDSON:

23 Q. Or at risk for diversion.

24 MR. KOBRIN: Object to form. Asked and
25 answered.

1 THE WITNESS: I didn't oversee the
2 investigation process, so my opinion really
3 wouldn't bear on this situation.

4 BY MR. HUDSON:

5 Q. Do you know whether or not this was an
6 order that was reported to the DEA?

7 A. I do not.

8 Q. Do you know whether or not this is an
9 order that was stopped?

10 A. We're still on seven; correct?

11 Q. Correct.

12 A. I do not.

13 Q. At this point in time in January of '13,
14 did you have an understanding of how the
15 monitoring system was working on a day-to-day
16 basis?

17 MR. KOBRIN: Object to form.

18 THE WITNESS: No.

19 (HBC-Bianco Exhibit 8 was marked.)

20 BY MR. HUDSON:

21 Q. I'll hand you what I've marked as
22 Exhibit 8.

23 MR. HUDSON: Exhibit 8, the internal
24 number is 1223.

25 (Witness reviewed the exhibit.)

1 BY MR. HUDSON:

2 Q. Have you had a chance to look at the
3 emails?

4 A. The emails, yes, not the attachment.

5 Q. Take a look, if you would, at the
6 attachment. I think it's a questionnaire from a
7 manufacturer.

8 A. Correct.

9 Q. Did you from time to time -- were you
10 asked to fill out or complete questionnaires from
11 manufacturers about HBC's distributor or
12 wholesaler process?

13 A. This is the only one I recall the
14 organization being requested.

15 Q. Do you have a recollection of this
16 particular manufacturer questionnaire?

17 A. Vaguely. I remember receiving it.

18 Q. And in the top email, was Mr. Carlson
19 asking you to review the questionnaire?

20 A. Yes.

21 Q. With Mr. Millward?

22 A. Asked me to review it with Joe, yes.

23 Q. And then below is an email from the
24 manufacturer, and it's Qualitest; right?

25 A. Correct.

1 Q. And they were indicating in that email
2 that they received questionnaires from 67 percent
3 of their customers but had not received a
4 completed questionnaire from Giant Eagle; right?

5 A. That's what it reads.

6 Q. And do you recall whether you met with
7 Joe to talk about the suspicious order monitoring
8 at HBC?

9 A. I don't remember specifics on this.

10 Q. Mr. Carlson alludes to recent
11 enhancements. Do you know what he meant by that
12 in his email?

13 MR. KOBRIN: Object to form.

14 THE WITNESS: I do not.

15 BY MR. HUDSON:

16 Q. So this email that we marked as
17 Exhibit 8 is dated January 15, right, of 2014?

18 A. Correct.

19 (HBC-Bianco Exhibit 9 was marked.)

20 BY MR. HUDSON:

21 Q. Let me hand you what I'm going to mark
22 as Exhibit 9. This is an email from Mr. Millward
23 to Greg Carlson, George Chunderlik and Shawn
24 Voyten. And then you and Mr. Mollica are copied
25 on this email; right?

1 A. Yes.

2 Q. And this is again referencing this
3 Qualitest questionnaire; right?

4 A. Yes.

5 (HBC-Bianco Exhibit 10 was marked.)

6 BY MR. HUDSON:

7 Q. And then the last exhibit on this topic
8 I've got for you I'm marking as Exhibit 10. And
9 this one, if you turn to --

10 MR. HUDSON: Exhibit 10, the internal
11 number is 123, P-GEN 123.

12 BY MR. HUDSON:

13 Q. If you turn to the last page of this
14 one, down there at the bottom do you see there --
15 is that your signature dated February 3, 2014?

16 A. Yes.

17 Q. And does this indicate that in February
18 of 2014 you, in fact, completed the Qualitest
19 questionnaire?

20 A. It states that I signed off on it, yes.

21 Q. And were you the one who actually filled
22 it out?

23 A. I don't recall.

24 Q. But you did sign and print your name;
25 right?

1 A. I signed my name.

2 Q. You wouldn't do that unless you reviewed
3 what you were signing; right?

4 A. Not necessarily.

5 Q. Do you think it's possible that this
6 questionnaire was signed by you without you
7 reading it?

8 A. I signed a lot of documents. I don't
9 remember if I read this one in particular or not.

10 Q. So if we go back to Exhibit 8, that's on
11 January 15 of 2014; right?

12 A. Exhibit?

13 Q. Exhibit 8.

14 A. Yes.

15 Q. And at that point in time, Qualitest was
16 asking for this questionnaire back; right?

17 A. In 2014, yes.

18 Q. And then on February 3, 2014 is when you
19 signed and dated it. So that's about a little
20 more two weeks; is that right?

21 A. Yes.

22 Q. And then if we go to Exhibit 9 is an
23 email from Mr. Millward to Mr. Voyten and
24 Mr. Carlson where he writes, "Are we reporting PSE
25 (a listed chemical) sales from HBC to the stores

1 monthly? I assume it is through ARCOS to comply
2 with 21 USC 830(b). Are the records being
3 retained for two years? We need lock down at SOM
4 SOP ASAP."

5 Do you see that?

6 A. Yes.

7 Q. Do you know what he meant by "We need
8 lock down at SOM SOP ASAP"?

9 A. I do not.

10 Q. Do you know whether or not at this time
11 in January of 2014 HBC had a suspicious order
12 monitoring policy?

13 A. Yes.

14 Q. And did HBC have a suspicious order
15 monitoring policy?

16 A. Yes.

17 Q. Was it a written policy?

18 A. I don't recall.

19 Q. Did you have any direct involvement in
20 trying to determine what suspicious order
21 monitoring policy or program HBC had?

22 MR. KOBRIN: Object to form. Asked and
23 answered.

24 THE WITNESS: No.

25

1 BY MR. HUDSON:

2 Q. If we look -- if we then turn to
3 Exhibit 10 and go to the last page of that
4 exhibit, question four, it says, "Please provide a
5 copy of your suspicious order monitoring program
6 SOP or summary of program." Do you see that?

7 A. Yes.

8 Q. And then you wrote underneath that, "The
9 Giant Eagle suspicious order monitoring program
10 utilizes purchase order threshold monitoring to
11 identify, investigate and report suspicious drug
12 orders by the individual pharmacy registrants."
13 Right?

14 A. That's what it reads, yes.

15 Q. How did you come to learn that this is
16 the program that HBC had in place?

17 A. I don't recall.

18 Q. Do you know if you were the one, you or
19 someone else supplied this information to
20 Qualitest about Giant Eagle's suspicious order
21 monitoring program?

22 A. If it was supplied to Qualitest?

23 Q. Do you know if you were the one who
24 supplied this? In other words, did you get this
25 information from someone else, or did you go out

1 and figure out and determine this is what Giant
2 Eagle's suspicious order monitoring program was?

3 MR. KOBRIN: Object to form.

4 THE WITNESS: I would have had Joe do
5 that as oversight of compliance.

6 BY MR. HUDSON:

7 Q. So you were relying on Joe to tell you
8 and provide you with the information about Giant
9 Eagle's suspicious order monitoring program?

10 MR. KOBRIN: Object to form.

11 THE WITNESS: Yes.

12 BY MR. HUDSON:

13 Q. Did you ever independently go and verify
14 whether or not Giant Eagle had a suspicious order
15 monitoring program that was monitoring thresholds
16 to identify, investigate and report suspicious
17 drug orders?

18 A. I don't recall.

19 Q. As you sit here today, do you have any
20 recollection of doing any sort of independent
21 review or investigation to try to figure out
22 exactly what the HBC program looked like?

23 A. I don't recall.

24 Q. When you say you don't recall --

25 A. I don't know.

1 Q. And I guess just so that the record is
2 clear, when you say don't recall, does that mean
3 as you sit here today, you don't have any specific
4 recollection of going and doing that, but that
5 doesn't mean that you didn't; you really don't
6 recall?

7 A. Correct.

8 (HBC-Bianco Exhibit 11 was marked.)

9 BY MR. HUDSON:

10 Q. I'm going to hand you what I'm marking
11 as Exhibit 11. And we're now in Exhibit 11 up to
12 May of 2014. And this appears to be an email
13 chain where somebody named Michael Cullen who
14 appears to be connected to Purdue is emailing
15 asking about getting together to talk about a
16 monitoring program for opioids.

17 Does that seem to be what this email chain is
18 about?

19 A. Can you repeat the question? Sorry. I
20 was reading.

21 Q. Sure. Is this an email chain from a
22 gentleman from Purdue who was wanting to meet up
23 with you or someone in compliance to talk about a
24 monitoring program?

25 A. Part of it, yes.

1 Q. And do you know whether or not you, in
2 fact, did meet with this gentleman to talk about a
3 monitoring or compliance program at Giant Eagle?

4 A. I don't remember meeting with him, but I
5 would have -- I didn't oversee our monitoring
6 program.

7 Q. Do you know whether or not anyone from
8 Giant Eagle or HBC ever met with Mr. Cullen to
9 talk about a monitoring program?

10 A. I do not. I don't remember if I did.

11 Q. I've only got one copy of this. So I'm
12 just going to hand this to you. This just looks
13 like -- and we don't need to mark it because it's
14 not that important. I'm going to use another
15 exhibit with you that's got more detail.

16 Does this look like in late July an email
17 from somebody named Eric Brantley to Mr. Murphy
18 with a copy to you about scheduling a Giant Eagle
19 site visit? You can ignore -- all the handwriting
20 is mine.

21 MR. KOBRIN: If he's going to look at
22 it, if we mark it as an exhibit, is that okay? We
23 can make other copy of it if you want.

24 MR. HUDSON: Yeah. That's fine. It's
25 got my handwriting on it. I don't think it's

1 really necessary.

2 THE WITNESS: What was the question?

3 BY MR. HUDSON:

4 Q. Is this an email where you were copied
5 that was talking about setting up a site visit at
6 the HBC warehouse?

7 A. It just says a site visit. It doesn't
8 necessarily say where.

9 (HBC-Bianco Exhibit 12 was marked.)

10 BY MR. HUDSON:

11 Q. Let me show you then what I'm marking as
12 Exhibit 12.

13 MR. KOBRIN: Well, this is going to be
14 Exhibit 12. This is going to be Exhibit 13.

15 MR. HUDSON: Mark that as 12.

16 (HBC-Bianco Exhibit 13 was marked.)

17 BY MR. HUDSON:

18 Q. I'll hand you what I marked as 13.

19 MR. KOBRIN: Do you want me to read the
20 Bates range for the record?

21 MR. HUDSON: Yeah, you can.

22 MR. KOBRIN: Exhibit 12 is

23 ENDO_HSGAC_0017819.

24 BY MR. HUDSON:

25 Q. Seeing Exhibits 12 and 13, does that

1 refresh your recollection at all about a site
2 visit?

3 A. No.

4 Q. Do you have any recollection of talking
5 to a consultant about compliance at the HBC
6 facility as part of a site visit?

7 A. I don't recall a discussion.

8 Q. If you look at Exhibit 13 and you turn
9 back to the third page, do you see there it says
10 Risk Evaluation Report?

11 A. Yes.

12 Q. It says primary contacts Mike Bianco,
13 pharmacy manager, and Greg Carlson, senior
14 director of pharmacy?

15 A. Yes.

16 Q. And then if we turn back to the
17 executive summary and we look down through there,
18 for example, in the second paragraph, do you see
19 references to yourself where it says "According to
20 Mr. Bianco"? Then if we look down into the third
21 paragraph, you see it begins, "According to
22 Mr. Bianco," and in the fourth paragraph it again
23 says "Mr. Bianco related," and then in the last
24 paragraph it talks about "According to
25 Mr. Bianco."

1 A. I see my name, yes.

2 Q. Do you recall having discussions with a
3 PCG senior division consultant?

4 A. No.

5 Q. Do you ever remember meeting somebody
6 named Tony Sheller?

7 A. No.

8 Q. Do you have any reason to believe that
9 Mr. Sheller did not travel to the Pittsburgh
10 corporate headquarters of Giant Eagle and
11 interview you?

12 A. No.

13 Q. Do you think that that occurred?

14 A. Based on this, yes. I just don't recall
15 it.

16 Q. And would you have at some point in time
17 been given a copy of this report?

18 A. I don't know.

19 MR. KOBRIN: For the record, I note that
20 he's not copied on the email that has the report
21 attached to it. There's no indication that he
22 received it.

23 BY MR. HUDSON:

24 Q. You were though -- if we go back to
25 Exhibit 12, you were involved in setting up the

1 meeting for this site visit to occur; right?

2 MR. KOBRIN: Object to form. Misstates
3 his testimony.

4 THE WITNESS: I don't recall this
5 meeting. So I don't know my involvement.

6 BY MR. HUDSON:

7 Q. If you can hand me back Exhibit 12, and
8 I apologize since we've only got one copy.
9 Exhibit 12 though does talk about setting up -- it
10 says, "Matt, reach out to Mike Bianco at Giant
11 Eagle to schedule a site visit." Then it provides
12 a 412 number that I'm assuming is your number. It
13 says, "I've copied him on this email." Right?

14 A. Yes.

15 Q. So the email does indicate that somebody
16 is reaching out to you and has your phone number
17 to set up this site visit; right?

18 A. Yes.

19 Q. If you look at Exhibit 12 and you
20 compare it to Exhibit 13, do you agree that these
21 emails are talking about the same site visit that
22 occurred at the Giant Eagle corporate
23 headquarters?

24 A. Yes.

25 Q. So as you sit here today, you don't have

1 any reason to believe that that site visit did
2 not, in fact, occur; right?

3 A. Correct.

4 Q. So if we go to -- and you see here in
5 Exhibit 13 that the Pharma Group, in fact, then
6 put together a document that then -- that's
7 entitled a Risk Evaluation Report; right?

8 A. Correct.

9 Q. Then the location is the location of the
10 HBC warehouse; right?

11 A. I believe that was the address, yes.

12 Q. Now, if we go to the executive summary,
13 it looks like Mr. Sheller traveled to Pittsburgh
14 to the corporate headquarters of Giant Eagle;
15 right?

16 A. Yes.

17 Q. And it says, "At the corporate location
18 Consultant Sheller met with Michael Bianco, Jr.,
19 corporate pharmacy manager, Greg Carlson,
20 corporate senior director of pharmacy, and Joe
21 Millward, corporate compliance senior manager."
22 Right?

23 A. It reads that, yes.

24 Q. It says, "These three individuals
25 provided most of the information noted in this

1 report." Correct?

2 A. Correct.

3 Q. Then it says, "Immediately after this
4 meeting, Consultant Sheller traveled to the
5 registered warehouse in Washington, Pennsylvania
6 and met with Matt Rogos, distribution operations
7 manager. Mr. Rogos provided the remainder of the
8 information in this report."

9 Did I read that right?

10 A. Yes.

11 Q. Now, if we go down to the fourth
12 paragraph that starts out, "At each customer of
13 controlled substances and PSEs at the Giant Eagle
14 retail pharmacy, copies of all the pharmacies' DEA
15 and state regulatory licenses are retained at the
16 HBC corporate office in Pittsburgh, PA."

17 Then it says, "Mr. Bianco related that there
18 are corporate policies that must be followed in
19 the distribution and dispensing of any controlled
20 drug at either the distributor or pharmacy level.
21 These policies are shared with the responsible
22 controlled drug handlers at the facility and the
23 pharmacist in charge at the pharmacy."

24 Did I read that right?

25 MR. KOBRIN: Object to form. Misstates

1 the evidence.

2 THE WITNESS: Yes.

3 BY MR. HUDSON:

4 Q. What was your basis for stating that
5 there are corporate policies that must be followed
6 in the distribution and dispensing of any
7 controlled drug at either of the distributor or
8 pharmacy level, if you recall?

9 A. As I mentioned, I was aware that there
10 were policies in place. I just don't know the
11 specifics behind them.

12 Q. And from whom did you learn that there
13 were policies in place? Would that be again
14 Mr. Millward?

15 A. I don't remember.

16 Q. In the last sentence, you said, "These
17 policies are shared with the responsible
18 controlled drug handlers at the facility."

19 Did you mean at the HBC facility.

20 MR. KOBRIN: Object to form. You're
21 reading from a report that he never reviewed and
22 didn't write and you're reflecting it's his
23 verbatim statement.

24 MR. HUDSON: It's him. He did make the
25 statement. It says "Mr. Bianco related" and then

1 it goes on.

2 MR. KOBRIN: Right. But again, we've
3 established he didn't write this. We have no
4 evidence that he ever reviewed it. We have no
5 evidence he's ever seen it until now.

6 BY MR. HUDSON:

7 Q. Mr. Bianco, do you have any doubt that
8 you gave statements to Mr. Sheller in August of
9 2014?

10 A. I don't doubt that I spoke with him, no.

11 Q. In speaking with him, do you believe
12 that what's contained in the fourth paragraph is
13 accurate? In other words, as you sit here today,
14 is that consistent with your recollection at the
15 time?

16 A. I don't remember this meeting, but it's
17 highly unlikely that I was the one speaking to
18 this. Based on this, given the people in the
19 room, it's highly unlikely I was the one that was
20 conducting the meeting.

21 Q. You believe that perhaps it was
22 Mr. Carlson or Mr. Millward or someone else who
23 actually made those comments, but they were
24 attributable to you?

25 A. That's likely, yes.

1 MR. KOBRIN: Ty, my objection wasn't to
2 anything about whether he believes he met with him
3 or anything. It's the way that you stated the
4 question, as if he had stated the exact words in
5 the report.

6 BY MR. HUDSON:

7 Q. Mr. Bianco, if you go to the bottom, the
8 last paragraph, it indicates that "The facility
9 was last inspected in May of 2013 by DEA, and
10 according to Mr. Bianco, minor record keeping
11 violations were detected and immediately
12 rectified." I've got the same question.

13 Do you think that that was information that
14 you would have provided or maybe that was somebody
15 else but that was attributed to you?

16 A. Yes. It's highly unlikely that I made
17 that -- that I actually made that statement. I
18 didn't handle the record keeping or the day-to-day
19 compliance. I was aware that the DEA came in or I
20 would have been aware I should say.

21 BY MR. HUDSON:

22 Q. Were you aware of whether there were any
23 violations that were flagged by the DEA?

24 A. No.

25 Q. Are you aware of any actions that were

1 taken to rectify those issues?

2 A. No.

3 Q. If we turn to the next page of the
4 executive summary, in the second full paragraph,
5 it says, "All orders of a controlled substance
6 and/or PSEs by the Giant Eagle pharmacies are
7 first screened by the corporate computer. An
8 unusual order is held at the facility and reviewed
9 by the loss prevention office before it is
10 released for distribution."

11 Do you know whether that's information that
12 you would have provided or someone else?

13 A. I wouldn't have known. This is the
14 first I'm seeing that level of detail.

15 Q. And as you sit here today, do you know
16 at the time in August of 2014 whether, in fact,
17 the facility had the ability to hold orders at the
18 facility?

19 A. Do I know --

20 MR. KOBRIN: Object to form.

21 THE WITNESS: Do I know if that was
22 possible?

23 BY MR. HUDSON:

24 Q. Yes.

25 A. Yes.

1 Q. It is possible?

2 A. That orders could have been held, yes.

3 Q. And how would that process work?

4 MR. KOBRIN: Object to form.

5 THE WITNESS: We've talked about this
6 previously, but they could be -- I mean, one way I
7 know is that they could have been identified by
8 somebody in the warehouse and held.

9 BY MR. HUDSON:

10 Q. So they would be physically held?

11 A. Not necessarily, but, yes.

12 Q. All I'm asking is, because I want to
13 make sure the record is clear: Was there an
14 automated process for flagging and holding orders
15 or would it be more of a manual process where if
16 something was flagged, then it would just involve
17 a picker or the supervisor at the warehouse
18 physically just putting the order aside and
19 waiting?

20 MR. KOBRIN: Object to form.

21 THE WITNESS: I don't know their -- I
22 don't know how that operation worked in detail
23 that you're describing it. I know that orders
24 could have been held, but I don't know how that --

25

1 BY MR. HUDSON:

2 Q. That's what I'm asking. How do you know
3 that orders could be held?

4 A. Well, I was copied on emails where the
5 orders were held.

6 Q. Do you know though as you sit here today
7 that they were, in fact, held?

8 A. Based on the emails that we saw, I mean,
9 yes.

10 Q. Are you referring back to Exhibit 6?

11 MR. KOBRIN: Object to form. I think he
12 mentioned earlier -- you had a whole colloquy
13 about holding orders and opioid and nonopioid
14 holds.

15 THE WITNESS: Six, yes, is an example of
16 an order held.

17 BY MR. HUDSON:

18 Q. So in Exhibit 6 explain to me how that
19 order was held.

20 MR. KOBRIN: Object to form. He's
21 already told you he doesn't know.

22 THE WITNESS: I don't know other than
23 what I'm reading here.

24 BY MR. HUDSON:

25 Q. That's what I'm saying. As you sit here

1 today, do you have actually have firsthand
2 knowledge that the HBC warehouse had the ability
3 to hold or stop orders?

4 MR. KOBRIN: Object to form. Asked and
5 answered.

6 THE WITNESS: Yes.

7 BY MR. HUDSON:

8 Q. And how then did that occur?

9 MR. KOBRIN: Object to form. Asked and
10 answered.

11 THE WITNESS: I mean, I'm reading an
12 email that I wrote that says an order was stopped.

13 BY MR. HUDSON:

14 Q. I'm trying to get an understanding of
15 what you're relying on other people to tell you.
16 Did somebody tell you the order had been
17 stopped --

18 MR. KOBRIN: Ty, are you asking if he
19 went to the warehouse to stop the order himself?

20 BY MR. HUDSON:

21 Q. -- versus you having firsthand knowledge
22 of how the process worked and how orders were
23 stopped?

24 MR. KOBRIN: Object to form. Ty, this
25 has been gone over several times in this

1 deposition. He's told you he knew the orders were
2 stopped. He's told you that he didn't understand
3 the exact technicalities of it. I don't
4 understand why you're beating this witness up
5 about this issue.

6 THE WITNESS: I never physically went
7 there to stop an order or see an order physically
8 stopped.

9 BY MR. HUDSON:

10 Q. And as you sit here today, you don't
11 know the process of how an order could be stopped?
12 I'll be real honest with you. The reason why I'm
13 asking is because other witnesses have testified
14 that orders can't be stopped.

15 MR. KOBRIN: Object to form.
16 Misrepresents the testimony of other witnesses.

17 THE WITNESS: I don't know how --

18 MR. HUDSON: The record will tell that.

19 THE WITNESS: I don't know how they
20 were -- I don't know the details behind it.

21 BY MR. HUDSON:

22 Q. Is it fair to say it was your
23 understanding at this time that orders could be
24 stopped, but you didn't understand how, you didn't
25 understand who did it, and you didn't understand

1 how the process worked?

2 MR. KOBRIN: Object to form.

3 THE WITNESS: Yes.

4 BY MR. HUDSON:

5 Q. Fair enough. Thank you.

6 MR. KOBRIN: Can we take just a quick
7 break?

8 MR. HUDSON: Sure. Let's go off the
9 record.

10 THE VIDEOGRAPHER: The time is 11:23.
11 We're going off the video record.

12 (Recess from 11:23 a.m. to 11:42 a.m.)

13 THE VIDEOGRAPHER: The time is
14 11:42 a.m. We are now back on the video record.

15 BY MR. HUDSON:

16 Q. Mr. Bianco, let's move to a new topic.
17 Were you ever involved in any DEA inspections?

18 A. Formal inspections, not that I remember.
19 (HBC-Bianco Exhibit 14 was marked.)

20 BY MR. HUDSON:

21 Q. Let me hand you what I've marked as
22 Exhibit 14.

23 MR. HUDSON: The internal number is 1226
24 for this one.

25

1 BY MR. HUDSON:

2 Q. This looks like two emails. I'm going
3 to start with the bottom email. And that was from
4 you to STR_Pharmacy_PDLs. Do you see that?

5 A. I do.

6 Q. Are you emailing then a distribution
7 list of all the Giant Eagle PDLs?

8 A. Yes.

9 Q. And then you're copying Mr. Millward,
10 Ms. Matty, Mr. Shaheen and Mr. Carlson; right?

11 A. Yes.

12 Q. And the subject is Narcs Found in Tote?

13 A. Correct.

14 Q. And it's September 25, 2014; right?

15 A. Correct.

16 Q. And in this email you're indicating that
17 a narcotic tote was returned to the HBC warehouse
18 today with no identifying marks; right?

19 A. Yes.

20 Q. And then below you've identified what
21 the contents are in that tote there; right?

22 A. It appears to be.

23 Q. The top one is two units of a
24 hydrocodone combination product; right?

25 A. Correct.

1 Q. And then if we go on down, the fifth
2 item down is one unit of a hydrocodone combination
3 product; right?

4 A. Correct.

5 Q. And then the sixth item is another one
6 unit of a hydrocodone combination product?

7 A. Correct.

8 Q. And then below that you wrote,
9 "Additionally, we have seen a large number of
10 totes being returned to the warehouse with their
11 contents still inside, many of which are
12 refrigerated or controlled items. Please attempt
13 to address this as you see fit."

14 Now, if we go up above to your -- that's in
15 October. If we go up to the top email, this is an
16 email from you to Mr. Millward with a copy to
17 Mr. Carlson; right?

18 A. To who?

19 Q. It's an email from you to Mr. Millward
20 with a copy to Mr. Carlson.

21 A. Yes. Sorry.

22 Q. And you're forwarding your email below;
23 right?

24 A. Yes.

25 Q. And that was the narcs found in tote

1 email; right?

2 A. Correct.

3 Q. So this is about a little less than a
4 week after your September 25 email is this forward
5 on October 1; right?

6 A. Correct.

7 Q. In here you said, "Hi, Joe. As you
8 likely know, the DEA was in for an inspection of
9 the warehouse today specifically asking about
10 hydrocodone-containing products."

11 Do you see that?

12 A. Yes.

13 Q. Do you have any recollection other than
14 what you're reading in this email about this DEA
15 next of the warehouse today asking about
16 hydrocodone-containing products?

17 MR. KOBRIN: Object to form.

18 THE WITNESS: No.

19 BY MR. HUDSON:

20 Q. Here you wrote, "At the time the
21 warehouse reported having no
22 hydrocodone-containing products on hand."
23 Correct?

24 A. Yes.

25 Q. Then in the next paragraph you said,

1 "Currently, we have one case of a
2 hydrocodone/APAP5/325 that was intended for 6510."

3 Is that a particular store, 6510?

4 A. Yes.

5 Q. "Which is being shipped out tonight
6 after discussion with Tracy Patel. We also have
7 one tote of which the contents are described below
8 that was returned to the warehouse. The original
9 owner of the returned tote is not able to be
10 identified by Donna Matty or myself through
11 various methods. Can you tell me how you would
12 like these contents to be handled. I would like
13 to have the four units of hydrocodone-containing
14 products out of the warehouse by 10/5 so we can
15 avoid any issues with the schedule change."

16 Do you see that?

17 A. Yes.

18 Q. Does this email from you to Mr. Millward
19 and a copy to Mr. Carlson indicate that on
20 October 1 when you were writing this email, there
21 were hydrocodone combination products that were at
22 the warehouse?

23 A. On October 1, yes.

24 Q. And you wrote this email at 1827. Would
25 that be 6:27 at night?

1 A. Assuming the time stamps are correct,
2 yes.

3 Q. And here in this email you're writing
4 that there was a DEA inspection of the warehouse
5 today, which means on October 1; right?

6 A. That's what it reads, yes.

7 Q. And at that inspection where that DEA
8 came in, the warehouse reported to the DEA having
9 no hydrocodone-containing products on hand;
10 correct?

11 A. That's what it reads, yes.

12 Q. But that wasn't true; right?

13 MR. KOBRIN: Object to form.

14 THE WITNESS: I don't know that.

15 BY MR. HUDSON:

16 Q. In this email that you forwarded, you
17 forwarded an email from September 25 that talked
18 about a tote being returned to the HBC warehouse
19 that had four units of hydrocodone combination
20 products; right?

21 A. Yes.

22 Q. And in your above email, you're talking
23 about shipping it out that night, the night of
24 October 1, right, from the warehouse?

25 A. That's what it reads.

1 Q. So that tote was there that day when the
2 DEA was inspecting; right?

3 A. I don't know that.

4 Q. You can't tell that from reading your
5 below email and this email?

6 A. I wasn't physically at the location. So
7 I don't know where the tote in question was or how
8 it was handled.

9 Q. In this email that you're writing to
10 Mr. Millward, we know where the tote was, right,
11 because you're talking shipping it out that night?

12 MR. KOBRIN: Object to form. Where are
13 you talking about they were shipping it out that
14 night?

15 BY MR. HUDSON:

16 Q. Do you see that, Mr. Bianco?

17 A. Can you repeat that.

18 Q. Sure. You said currently -- or you
19 said, "Currently we have one case of
20 hydrocodone/APAP 5/325..." What is that?

21 A. That's -- I can't remember if it's
22 Vicodin or Norco. I think it's Norco, the generic
23 Norco.

24 Q. "...that was intended for 6510, which is
25 being shipped out tonight after discussion with

1 Tracy Patel." And who is Tracy Patel?

2 A. She's an PDL.

3 Q. So this is indicating the HBC warehouse
4 is going to ship this hydrocodone-containing
5 product to -- it's going to ship it out that
6 night. Is that a fair reading of this email.

7 A. I don't know where it was shipping from.
8 It just says that it was shipping.

9 Q. You can't tell from your email where it
10 was shipping from, that particular
11 hydrocodone-containing product?

12 A. I can make an assumption.

13 Q. What would your assumption be?

14 MR. KOBRIN: Object to form.

15 THE WITNESS: Strictly speculating, it
16 would be from the warehouse.

17 BY MR. HUDSON:

18 Q. Is there anywhere else that you can
19 think of as you sit here now where that
20 hydrocodone-containing product would be other than
21 the warehouse?

22 A. At the time I believe it wasn't a CII.
23 How it was handled didn't have as -- the DEA
24 doesn't regulate it as tightly. So I don't know
25 where it was. I can't speak to where it was.

1 Q. So if it was a hydrocodone-containing
2 product, since it's less regulated, in your mind,
3 somehow it's less critical that you tell the truth
4 to the DEA about which products are there?

5 MR. KOBRIN: Object to form.

6 BY MR. HUDSON:

7 Q. I don't understand what that means.

8 MR. KOBRIN: Object to form. Misstates
9 the testimony and it's argumentative.

10 THE WITNESS: You don't understand what
11 what means?

12 BY MR. HUDSON:

13 Q. Why did you say that hydrocodone was not
14 a CII at the time?

15 A. I thought you had said earlier that
16 hydrocodone changed in late October 2014.

17 Q. It changed at some point in
18 October 2014; right?

19 A. Okay.

20 Q. Do you know specifically when it
21 changed?

22 A. I don't know off the top of my head, no.

23 Q. Do you know why the DEA was conducting
24 this inspection?

25 A. I do not.

1 Q. Do you know why they were asking about
2 hydrocodone-containing products?

3 A. I do not.

4 Q. Do you know why the warehouse reported
5 having no hydrocodone-containing products on hand?

6 A. I do not.

7 Q. From your email, do you think it's fair
8 to infer that you're saying that there were
9 hydrocodone products that are on hand, but they're
10 being shipped out as soon as possible?

11 MR. KOBRIN: Object to form.

12 THE WITNESS: At what time?

13 BY MR. HUDSON:

14 Q. On October 1. One shipment you're going
15 to ship out later that night on October 1, and the
16 other shipment you're trying to get shipped out by
17 10/5.

18 A. We can infer that as of October 1 at
19 6:30 p.m. there was hydrocodone there. That's
20 fair.

21 Q. Right. So we know for sure that on
22 October 25, 2014, you wrote to all the PDLs about
23 a tote that had been returned to the HBC warehouse
24 that day that contained four units of hydrocodone
25 combination products; right?

1 A. Correct.

2 Q. And then we also know that in your email
3 of October 1, you reference that tote again, and
4 you say, we also have one tote of which the
5 contents are described below, and that's your
6 email from September 25, right, that was returned
7 to the warehouse? The original owner of the
8 returned tote is not able to identify by Donna
9 Matty or myself -- is not able to be identified by
10 Donna Matty or myself through various methods;
11 right?

12 A. That's what it reads.

13 Q. Then you said, "Can you tell me how you
14 would like these contents to be handled?" And you
15 wrote, "I would like to have the four units of
16 hydrocodone-containing products out of the
17 warehouse."

18 When you say out of the warehouse, that
19 indicates that at least on October 1 at 6:27 p.m.
20 when you wrote this email that they're in the
21 warehouse; right?

22 MR. KOBRIN: Object to form.

23 BY MR. HUDSON:

24 Q. Do you agree with that?

25 A. (Nodding.)

1 Q. And you want them out within the next
2 four days, by 10/5, so you can void issues with
3 the schedule change; right?

4 A. That's what it says.

5 Q. As you sit here today, do you believe
6 that the warehouse conveyed information to the DEA
7 that was not accurate?

8 A. I don't know.

9 Q. Was the purpose of your email to
10 Mr. Millward to make him aware of what had been
11 told to the DEA and make sure that those
12 hydrocodone combination products were out of the
13 warehouse as soon as possible?

14 A. I think the purpose would have been to
15 let him know about the hydrocodone products in the
16 warehouse at that time.

17 Q. Why then did you mention the DEA
18 inspection?

19 A. I don't know.

20 Q. Why did you mention that the warehouse
21 reported having no hydrocodone-containing
22 products?

23 A. I don't know. I don't know if that was
24 said to the DEA or not.

25 Q. You think from your email it's possible

1 that the warehouse did not report to the DEA of
2 having no hydrocodone-containing products on hand?

3 A. I can't speak to that. I wasn't there.

4 Q. Let's look more carefully then, if we
5 can go back up to the top paragraph of your email.
6 This is what you wrote on October 1.

7 "As you likely know, the DEA was in for an
8 inspection of the warehouse today specifically
9 asking about hydrocodone-containing products. At
10 the time the warehouse reported having no
11 hydrocodone-containing products on hand."

12 In your mind, is there any doubt at all that
13 the HBC warehouse reported to the DEA on October 1
14 that it had no hydrocodone-containing products on
15 hand?

16 A. I don't know. I don't know if the DEA
17 asked if there was any on hand. I wasn't at
18 the...

19 Q. You don't know whether or not the DEA
20 asked the warehouse whether there were
21 hydrocodone-containing products on hand?

22 A. I don't know how I could know that.

23 Q. You wrote it in your email, didn't you?

24 A. No.

25 Q. You say, "As you likely know, the DEA

1 was in for an inspection of the warehouse today
2 specifically asking about hydrocodone-containing
3 products."

4 Then you went on and said, "At the time the
5 warehouse reported having no
6 hydrocodone-containing products on hand."

7 In your mind is there any uncertainty as to
8 what you wrote?

9 MR. KOBRIN: Object to form.

10 THE WITNESS: I can read what I wrote.

11 BY MR. HUDSON:

12 Q. You agree that that day when the DEA was
13 there, what you're writing is that the warehouse
14 told the DEA that there were no
15 hydrocodone-containing products on hand; right?

16 A. I disagree.

17 Q. You don't think that's what's written in
18 that paragraph?

19 A. I know definitively that's not what's
20 written in the paragraph.

21 Q. What do you think the warehouse told the
22 DEA?

23 A. I don't know.

24 Q. What was your overall point in writing
25 this email to Mr. Millward who was the head of

1 compliance at the time?

2 A. I don't remember. As I said earlier, I
3 could speculate that it was likely to tell him at
4 time of day that there may have been products on
5 hand.

6 Q. Why would it be important to tell him
7 that there were hydrocodone products on hand?

8 MR. KOBRIN: Object to form.

9 THE WITNESS: Based on my email because
10 we wanted them out of the warehouse by 10/5.

11 BY MR. HUDSON:

12 Q. And why did you want them out of the
13 warehouse by 10/5?

14 A. So we can avoid any issue with the
15 schedule change.

16 Q. What about the DEA, is there any
17 connection between the DEA coming and asking about
18 hydrocodone-containing products and the decision
19 to ship out the hydrocodone combination products
20 that you identified as being on hand?

21 MR. KOBRIN: Object to form.

22 THE WITNESS: Can you repeat that.

23 BY MR. HUDSON:

24 Q. Sure. Is there any connection between
25 the DEA conducting this inspection of the

1 warehouse that day and your decision to email
2 Mr. Millward and Mr. Carlson about shipping out
3 the hydrocodone combination products as soon as
4 possible or at least by 10/5?

5 MR. KOBRIN: Object to form.

6 THE WITNESS: I don't -- I don't know.

7 BY MR. HUDSON:

8 Q. If it was just about shipping the
9 hydrocodone combination products out, would there
10 have been any need to reference that the DEA had
11 made an inspection that day?

12 A. They're two separate paragraphs, so...

13 Q. So you think these are two unconnected
14 points?

15 A. No. I don't know.

16 Q. Does this cause you concern as you're
17 sitting here today reading these two paragraphs
18 that it's possible that the HBC warehouse may have
19 provided inaccurate information to the DEA about
20 whether it had hydrocodone-containing products on
21 hand?

22 MR. KOBRIN: Object to form.

23 THE WITNESS: No.

24 BY MR. HUDSON:

25 Q. It does not?

1 A. It doesn't state that they did.

2 Q. Do you think it's possible that the
3 warehouse reported to the DEA that it had no
4 hydrocodone-containing products on hand when, in
5 fact, the warehouse did have
6 hydrocodone-containing products in the warehouse
7 at the time of the DEA inspection?

8 MR. KOBRIN: Object to form. Calls for
9 speculation.

10 THE WITNESS: Is that possible? Yes.

11 BY MR. HUDSON:

12 Q. And from the contents of your email,
13 doesn't it appear to be highly likely that that's
14 what happened?

15 MR. KOBRIN: Object to form.

16 THE WITNESS: No. We had a very close
17 relationship with the DEA. So I don't know what
18 the conversations specifically were about, but
19 they could have been about many issues surrounding
20 the hydrocodone change, schedule change.

21 BY MR. HUDSON:

22 Q. We do know though as part of that
23 conversation, the warehouse did report to the DEA
24 having no hydrocodone-containing products on hand.
25 We know that; right?

1 A. No.

2 Q. We don't know that?

3 A. I don't know who they reported that to.

4 Q. You think it's possible in the same
5 paragraph you wrote about a DEA inspection of the
6 warehouse asking about hydrocodone-containing
7 products and in the next sentence you changed the
8 subject completely and talked about a report to
9 somebody other than the DEA about having no
10 hydrocodone-containing products on hand?

11 MR. KOBRIN: Object to form.

12 Argumentative.

13 THE WITNESS: And what was the question?

14 MR. HUDSON: Would you mind reading back
15 the question.

16 (The record was read back.)

17 BY MR. HUDSON:

18 Q. Do you understand the question?

19 A. I'm not changing the subject entirely.
20 I'm still talking about hydrocodone. But, again,
21 I can't -- I don't know what they said. I wasn't
22 there. I don't know what was reported. I would
23 presume the DEA has a report on that date.

24 Q. Sir, that first paragraph, you're
25 recapping a DEA inspection that occurred and what

1 you told the DEA about hydrocodone-containing
2 products; right?

3 A. No. I was not there to report anything
4 to the DEA.

5 Q. But you're not -- in that paragraph you
6 are not recapping what happened at that DEA
7 inspection that day?

8 A. In the first sentence, yes.

9 Q. Only the first sentence.

10 A. I don't know. I don't recall this
11 email. I don't recall the situation.

12 Q. As you're sitting here today, just
13 understanding the English language and that
14 paragraph and how it's written, is there any doubt
15 in your mind that those two sentences are
16 connected and that you're talking about a DEA
17 inspection of the warehouse, about
18 hydrocodone-containing products, and exactly what
19 the warehouse reported to the DEA?

20 MR. KOBRIN: Object to form.

21 Argumentative. Asked and answered.

22 THE WITNESS: Was there concern? What
23 was the leading part of that? Was there concern
24 that I --

25

1 BY MR. HUDSON:

2 Q. I just want to get your best testimony
3 on the record about the first paragraph. When you
4 read that paragraph as you sit here today, is your
5 best recollection of what you wrote back on
6 October 1 -- are those two sentences connected and
7 are you reporting to Mr. Millward and copying
8 Mr. Carlson, your boss at the time, about a DEA
9 inspection of the HBC warehouse and what the
10 warehouse reported to the DEA?

11 MR. KOBRIN: Object to form.

12 THE WITNESS: I guess if I had any
13 concern -- I don't recall this email. But if I
14 had any concern that there was a suspicious order,
15 I wouldn't put it in five words in an email at
16 6:30 at night, or a dozen words.

17 BY MR. HUDSON:

18 Q. My question though wasn't about a
19 suspicious order. My question is that first
20 paragraph, it's just what the warehouse told the
21 DEA about whether there were hydrocodone
22 combination products at the warehouse at the time
23 of the inspection and then you reporting to them
24 later about what your understanding of what was at
25 that warehouse later that night.

1 Isn't that what's going on in this email?

2 A. Like I said, I wouldn't -- if I had
3 concerns that there was a suspicious response to a
4 DEA inspection, I would have taken further steps
5 than to put it in several words in an email at
6 6:30 at night.

7 Q. With all due respect, it's not just
8 several words. In the second paragraph goes in
9 and you describe in detail exactly how to solve
10 the problem and get those hydrocodone combination
11 products out of the warehouse as soon as possible;
12 right?

13 MR. KOBRIN: Object to form.

14 THE WITNESS: I disagree with that.

15 BY MR. HUDSON:

16 Q. You do agree that for one case of the
17 hydrocodone products, you're shipping those out
18 later that same night; right? It's 6:27 at night
19 and you're going to ship that case out later that
20 night.

21 A. Correct.

22 Q. Is that usual or unusual for shipments
23 to be shipped out after 6:30 at night?

24 A. Our first wave I don't believe started
25 until 6:30 at night. I can't remember if it was

1 6:30, 7:30 or 8:30, but it was something similar
2 to that.

3 Q. We can agree that what you identified in
4 this second paragraph was a case of
5 hydrocodone-containing products that had been
6 meant to be shipped to store 6510, but it hadn't.
7 So now you're putting in place a plan to get that
8 shipped out of the warehouse that night on
9 October 1? Can we agree on that?

10 MR. KOBRIN: Object to form.

11 THE WITNESS: I did not put the plan --
12 it doesn't look like I put the plan in place. I'm
13 letting them know what the plan was.

14 BY MR. HUDSON:

15 Q. But you're relaying to them what the
16 plan was for that particular case?

17 A. Correct.

18 Q. And then for the second, the tote that
19 you talked about before that had been in the
20 warehouse for about a week and hadn't been
21 claimed, it also had hydrocodone-containing
22 products. And then in the rest of the paragraph
23 you're laying out or relaying to the head of
24 compliance and your boss the plan to get that
25 shipped out of the warehouse, too; right?

1 A. No. I'm asking if they can tell me how
2 they should be handled.

3 Q. And then because you're laying out for
4 them a recommendation what you think should
5 happen; right?

6 MR. KOBRIN: Object to form. Misstates
7 the evidence.

8 THE WITNESS: No.

9 BY MR. HUDSON:

10 Q. At a minimum you're telling them you
11 would sure like to see the product out of the
12 warehouse by 10/5 so that you can avoid any issue
13 with the scheduling change.

14 A. Agreed.

15 Q. Do you know whether or not those
16 hydrocodone-containing products were, in fact,
17 shipped from the warehouse that night? Do you
18 have any recollection?

19 A. No.

20 Q. Do you know anything more about this
21 topic than what we've talked about?

22 A. The topic of changing schedules?

23 Q. Yeah, this DEA inspection and then the
24 plan for shipping these two hydrocodone-containing
25 products.

1 A. No. The conversion of the schedule,
2 yes.

3 (HBC-Bianco Exhibit 15 was marked.)

4 BY MR. HUDSON:

5 Q. We'll move to a new topic and hand you
6 what I've marked as Exhibit 15. Exhibit 15 is a
7 thick set -- it's a cover email with a set of
8 attachments, and the subject of this email is All
9 Policies for VAWD Reflected as of 5:00 p.m. Today.

10 Do you recognize Exhibit 15, Mr. Bianco?

11 A. Flipping through it, they look like
12 policies, but without having an opportunity to
13 read them all.

14 Q. This is an email from Sara Green; right?

15 A. Appears to be, yes.

16 Q. And who is Sara Green?

17 A. Based on her signature, she was an
18 executive secretary. I'm not sure.

19 Q. And she's then distributing this set of
20 policies to a distribution group that includes
21 yourself and others?

22 A. Yes.

23 Q. And she wrote down in the body of the
24 email, "Good afternoon. Sorry for so many emails
25 throughout the day. Attached are all final PDF

1 version policies for VAWD as well as the document
2 retention policy and chart. If you have any
3 questions, let me know."

4 A. Yes.

5 Q. Were you part of the group that reviewed
6 these policies before they were put into final
7 form?

8 A. On each specific policy, again, without
9 having an opportunity to read them, I may have
10 interacted on some of them, but I don't know
11 without having an opportunity to review them all.

12 Q. What is VAWD?

13 A. Verified accredited wholesale
14 distributor.

15 Q. And is that a certification that you can
16 obtain?

17 A. I believe through NABP.

18 Q. Through NABP?

19 A. National Association of Boards of
20 Pharmacy.

21 Q. And did the HBC warehouse ever get VAWD
22 certification?

23 A. I don't believe so.

24 Q. Did the HBC warehouse ever apply for
25 VAWD certification?

1 A. I'm not -- I'm not sure if we ever
2 actually applied or not.

3 Q. Were you part of the effort to create
4 these policies for VAWD?

5 A. I helped on some of the policies, but,
6 again, without reading all of these, I'm not sure
7 which ones I did or did not.

8 Q. Let's go back, if we could. For this
9 purpose, I'll just use the Bates numbers that are
10 in the bottom right, the Bates ending number. So
11 go back, if you could, to Bates 629.

12 A. Is that this?

13 Q. Exactly. It's the HBC_MDL.

14 A. What was the number?

15 Q. The ending number is 629.

16 A. Okay.

17 Q. And if you could, at the top it says
18 Security Policy. Do you see that at the top
19 right?

20 A. Yes.

21 Q. And then, if you could, do you see the
22 table that's got two columns?

23 A. Yes.

24 Q. Explain to me, if you could, how to read
25 that, if you know.

1 A. I don't know. The policy number -- I
2 don't know the details on kind of the logic behind
3 this, but effective date to me would be when it
4 was effective, created date. I mean, I'm
5 speculating at this point.

6 Q. You don't know how to read the Giant
7 Eagle policy?

8 MR. KOBRIN: Object to form. You asked
9 him to explain to you the chart at the top.

10 THE WITNESS: I understood it that you
11 wanted me explain the parts of it. I can read it,
12 yes.

13 BY MR. HUDSON:

14 Q. I'm just saying, do you understand it?

15 MR. KOBRIN: The policy or the chart?

16 MR. HUDSON: The chart.

17 THE WITNESS: The chart, yes. I
18 understand what a policy number is.

19 BY MR. HUDSON:

20 Q. The policy number -- there's a specific
21 number within Giant Eagle that's assigned to this
22 policy, and this is one is 30-18; right?

23 A. Yes.

24 Q. And then the effective date of 8/1/14
25 tells us that this date became an effective policy

1 at Giant Eagle on August 1, 2014; right?

2 MR. KOBRIN: Object to form. I think
3 you meant this policy.

4 MR. HUDSON: That's what I meant, yes.

5 THE WITNESS: This policy was effective
6 8/1/14?

7 BY MR. HUDSON:

8 Q. Correct.

9 A. Yes.

10 Q. And it was created on 8/1/14, too;
11 right?

12 A. Yes.

13 Q. And then the policy owner would be Matt
14 Rogos?

15 A. Yes.

16 Q. What does that mean, policy owner? Does
17 that have a significance?

18 MR. KOBRIN: If you know.

19 THE WITNESS: I'm not sure.

20 BY MR. HUDSON:

21 Q. Have you ever been the policy owner of
22 any Giant Eagle policies, to your knowledge?

23 A. I don't recall.

24 Q. Do you know what the reference number is
25 underneath that?

1 A. No.

2 Q. If we go to the next column on the
3 right, it says Version/Revision Number. Do you
4 know what that means?

5 A. The version number?

6 Q. Yes.

7 A. Yeah. It's the version.

8 Q. So this is the first version of this
9 particular policy?

10 A. Correct.

11 Q. And then the revision date is 4/9/15?

12 A. Correct.

13 Q. Then the last reviewed date is the
14 4/9/15.

15 A. Correct.

16 Q. And then the department is HBC Service
17 Company; right?

18 A. Yes.

19 Q. So would this be a policy that related
20 to HBC Service Company?

21 A. Without reading it, yes.

22 Q. Explain to me then if there's a revision
23 date of 4/9/15 and a creation date of 8/1/14, but
24 the version that we're looking at is version 1,
25 does that mean that there were no changes?

1 A. I don't know. I wasn't on our policy
2 committee internally, so I don't know the logic
3 behind all of those.

4 Q. Let's turn back, if we could. The next
5 one is 633.

6 A. Okay.

7 Q. This one is Inventory Control Suspected
8 Losses policy. And it's got the same effective
9 date, date created and revision dates; right?

10 A. It appears to, yes.

11 Q. And then if we turn to the next one
12 that's Bates ending 636, it's got the same created
13 date and the same revision date; right?

14 A. Yes.

15 Q. It's the 8/1 for the effective date and
16 created date, and then the revision date is again
17 4/9/15?

18 A. Correct.

19 Q. If we turn to the next one that's on
20 638, we can again just pull up that table, again,
21 we've got an effective date and created of
22 8/1/14 and a revision date of 4/9/15; right?

23 A. Correct.

24 Q. If we go to the next one on 640, 640 is
25 the ending Bates number, we pull that table up,

1 again, we've got the same effective date, created
2 date of 8/1/14. We've got the same revision or
3 last reviewed date of 4/9/2015; right?

4 A. Correct.

5 Q. If we go to the next one that's ending
6 in 642 -- skip that one because that one doesn't
7 apply to HBC. Go to to 644.

8 A. Okay.

9 Q. Do you see the reference is another HBC
10 policy?

11 A. That's what the reference is, yes, but I
12 don't know kind of the logic that supports this.

13 Q. This one, you're actually the owner of
14 this one; right?

15 A. Appears to be, yes.

16 Q. Do you know what that means?

17 MR. KOBRIN: Object to form.

18 THE WITNESS: I believe I would have
19 been responsible for ensuring the policy was being
20 enacted. Again, it's several years ago, three
21 jobs ago, so I don't really remember.

22 BY MR. HUDSON:

23 Q. If we go to the next one at 647, this is
24 again another HBC policy, and we've got effective
25 date 8/1/14 and revision date of 4/9/15; right?

1 A. Correct.

2 Q. If we go to the next one at 649, do you
3 see there again we've got another policy for HBC
4 Service Company, effective date 8/1, created date
5 8/1, revision date 4/9/15?

6 A. Correct.

7 Q. If we go to the next one at 653, we've
8 got another HBC policy with an effective date of
9 8/1/14, a created date of 8/1/14 and a revision
10 date of 4/9 and a last reviewed date of 4/9;
11 right?

12 A. Correct.

13 Q. If we go to the next one, that's Bates
14 ending 656, again another HBC policy created on
15 8/1/14 with an effective date of 8/1/14, a
16 revision date of 4/9/15 and a last reviewed date
17 of 4/9/15; right?

18 A. Correct.

19 Q. If we go to the next one at 658, another
20 HBC policy created on 8/1/14, effective date of
21 8/1/14, revision date of 4/9/15, and last reviewed
22 date of 4/9/15; right?

23 A. Correct.

24 Q. Then if we go to the next one at 662,
25 this one is actually slightly different. We've

1 got the same effective date and the same created
2 date of 8/1/14; right?

3 A. Correct.

4 Q. But this one was actually revised on
5 November 25, 2014, and it was last reviewed on
6 4/9/15; right?

7 A. Correct.

8 Q. So this is the first one that we have
9 that wasn't last reviewed, then revised on 4/9/15
10 of the ones that we've reviewed so far; right?

11 MR. KOBRIN: Object to form. State that
12 again.

13 THE WITNESS: I wasn't keeping track of
14 each of them.

15 BY MR. HUDSON:

16 Q. Let's go then, if we could, to the next
17 one, 665. Again, we've got 8/1 effective date,
18 8/1 created date. Then we've got back to the same
19 revision date and the same last reviewed date of
20 4/9/15; right?

21 A. Correct.

22 Q. So it looked like to me that all of
23 these policies all purport to be created on 8/1/14
24 and be effective on 8/1/14.

25 MR. KOBRIN: Object to form. Misstates

1 the evidence. What do you mean by all? Just the
2 ones you pointed out?

3 BY MR. HUDSON:

4 Q. If there's one in here that you can find
5 that wasn't, let me know.

6 MR. KOBRIN: Effective on 8/1/14? I
7 believe the one you skipped, you don't think that
8 one is?

9 MR. HUDSON: That one didn't apply to
10 the HBC warehouse.

11 MR. KOBRIN: You said all of these.

12 BY MR. HUDSON:

13 Q. Mr. Bianco, do you have any
14 understanding of the process that went into
15 creating these written policies for the HBC
16 warehouse?

17 A. Very high level, that a group or
18 individual would get together and put a policy
19 together, but that's about it.

20 Q. Do you know what the purpose was of
21 creating -- it looks like there's a common nucleus
22 for these that were -- a whole bunch of these
23 policies were created on 8/1/14 and had an
24 effective date of 8/1/14. Do you know if there's
25 any magic to that date?

1 A. That specific date I don't remember.

2 MR. KOBRIN: Object to form regarding
3 the word magic.

4 BY MR. HUDSON:

5 Q. Are you aware of whether Giant Eagle or
6 HBC had a practice of keeping written policies
7 that were created?

8 MR. KOBRIN: Object to form.

9 THE WITNESS: Did we have a practice of
10 that?

11 BY MR. HUDSON:

12 Q. Yes.

13 A. Yes.

14 Q. In other words, should we expect to be
15 able to find in Giant Eagle or HBC's files a copy
16 of the 8/1/14 version of these policies that were
17 created --

18 A. I don't know.

19 Q. -- around that time?

20 A. I don't know.

21 Q. Knowing what you know about Giant
22 Eagle's practices, would you expect there to be
23 one? In other words, can we agree this is a
24 packet of policies that were being revised on
25 April 9, 2015; right?

1 A. Appears to be.

2 Q. But you agree with me that all of them
3 that we looked at, none of them were created on --
4 an original was created on April 9, 2015. They
5 were all revised on this date; right?

6 MR. KOBRIN: Object to form.
7 Misrepresents the document, the evidence.

8 THE WITNESS: I don't know, again,
9 without kind of looking through. I can't answer
10 that.

11 BY MR. HUDSON:

12 Q. We walked through some; right?

13 A. Yeah.

14 Q. You just talked about when the effective
15 date was and the created date was. And we talked
16 about when the revision date was; right?

17 A. Yes.

18 MR. KOBRIN: Object to form. Ty, you're
19 misrepresenting the evidence. We've established
20 it didn't say all.

21 MR. HUDSON: I didn't say all. I said
22 the ones that we walked through. You're happy to
23 ask him questions at the end, Josh. If you think
24 that I'm mischaracterizing something, please do
25 that. You'll clean it up if I messed it up, and

1 it's entirely possible that I did.

2 BY MR. HUDSON:

3 Q. But I'm going to do my very best, sir,
4 to ask honest, clean, clear questions.

5 My question is: Of the policies that we went
6 through and we've gone through ten or so and we've
7 gone through and looked at what the effective date
8 was and the created date and then we looked at the
9 revision date. We just did that; right?

10 A. Correct.

11 Q. For all of those, the revision dates --
12 for those policies that we were looking at, a lot
13 of the revision dates were on 4/9/15; right?

14 A. A lot of them, yes.

15 Q. A lot of those had an effective date and
16 a created date of 8/1/14. Do you remember that?

17 A. Yes.

18 Q. So would you expect that on the
19 effective date and the created date of 8/1/14,
20 there would be somewhere at Giant Eagle a hard
21 copy of those policies that were created on or
22 around August 1, 2014?

23 A. I don't know. As I said, I don't sit on
24 the committee that puts policies together at Giant
25 Eagle, so I don't know the processes and how that

1 works.

2 Q. For these revised policies that were
3 being created on April 9, 2015, we've got this
4 email sending around final versions of the revised
5 policies. Can we agree to that?

6 A. Yes.

7 Q. Would you expect on or around August 1,
8 2014 that there would have been some exercise
9 where the company would have sent around the final
10 versions of those policies that were going to be
11 put into effect?

12 A. As I stated, I don't know how that would
13 have worked. I don't sit on that committee, so I
14 don't know what their standard practices are.

15 Q. Did you sit on the committee on April 9,
16 2015?

17 A. On the policy committee, no.

18 Q. This email is being distributed to you
19 on April 9, 2015; right?

20 A. Correct.

21 Q. You the same role on August 1, 2014 that
22 you did on April 9, 2015; right?

23 A. Yes.

24 Q. To the best of your recollection, as you
25 sit here today, do you know whether there was a

1 similar exercise in August of 2014 where there was
2 a set of those policies that were going to go into
3 effect were circulated?

4 A. I do not know, but I think it's
5 important this is not the policy committee this
6 distribution list. So I don't know how they would
7 have been handled.

8 Q. What I'm getting at though is at least
9 on this point on April 9, 2015, you are being
10 copied on an email that's sending around these new
11 versions of the policies; right?

12 A. I am, yes.

13 Q. And all I'm asking is: Would it be your
14 expectation, whether you received it or not, would
15 it be your expectation that there would be a
16 similar exercise that happened around August 1,
17 2014 when those original policies were getting put
18 into place?

19 A. I don't know.

20 Q. Is it possible that there were not
21 copies of these policies that were created on or
22 around August 1, 2014?

23 A. Anything is possible. So yes.

24 Q. Do you have any knowledge about that?

25 A. About what?

1 Q. Whether or not there were, in fact,
2 policies version 1 or prior copies, drafts,
3 whatever you want to call it of these policies
4 that were created on or around August 1, 2014.

5 A. Without looking through each policy, I
6 wouldn't know. But I generally don't
7 independently verify our policies to know if one
8 is out there or not.

9 Q. If you wanted to independently verify
10 them, where would you go and look?

11 MR. KOBRIN: Object to form.

12 THE WITNESS: I would ask the policy
13 committee.

14 BY MR. HUDSON:

15 Q. In August of 2014, to the best of your
16 recollection, who was on the policy committee?

17 A. I don't know. I just know I wasn't on
18 it. I really don't.

19 Q. Do you know in April of 2015 who was on
20 the committee?

21 A. No. I know there's legal representation
22 and others, but I don't know who's on that
23 committee. And today as an employee, I don't know
24 who's on that committee.

25 Q. Do you know if VAWD ever raised any

1 concerns about these policies?

2 A. I left Giant Eagle very shortly after
3 this. So, no, I don't know if we ever met with
4 them. I don't know if we actually submitted an
5 application or not.

6 Q. Do you have any knowledge about why the
7 HBC facility did not obtain a VAWD certification?

8 A. No.

9 Q. Do you know whether or not the HBC
10 facility submitted a VAWD application?

11 MR. KOBRIN: Object to form. Asked and
12 answered.

13 THE WITNESS: I don't know if we ever
14 actually submitted it.

15 (HBC-Bianco Exhibit 16 was marked.)

16 BY MR. HUDSON:

17 Q. Jump to a new topic and hand you a new
18 document that I've marked as Exhibit 16. It
19 appears to me that Exhibit 16 is an email being
20 distributed by Mr. Carlson to a distribution list
21 including you about a meeting that's going to
22 occur at the Edgewood Town Center, and it looks
23 like the start time for the meeting is
24 November 11, 2014. Am I reading that cover right?

25 A. Yes.

1 Q. And then if we go to the second page, it
2 looks like it says Pharmacy Quarterly Staff
3 Meeting, November 11, 2013.

4 A. Yes.

5 Q. And then I've just got a couple
6 questions here focused on -- again, if we look at
7 the Bates, it would be the Bates ending 558 on the
8 bottom right.

9 MR. KOBRIN: Do you want to take some
10 time to look through the document?

11 THE WITNESS: Yeah.

12 BY MR. HUDSON:

13 Q. You see that this staff meeting is
14 separated at the top into sections.

15 A. Yes.

16 Q. My question is really only going to be
17 focused on the fifth section. It says CSOS.

18 A. Do you have a page number?

19 Q. The Bates ending is 558.

20 A. Okay.

21 Q. It says at the top "DEA's Controlled
22 Substance Ordering System (CSOS) allows for secure
23 electronic transmission of Schedule II controlled
24 substance orders without the supporting paper
25 Form 222." Do you see that?

1 A. Yes.

2 Q. So this is referencing -- I think we
3 talked about this earlier. This is that CSOS
4 system that Giant Eagle was contemplating
5 implementing; right?

6 A. Correct.

7 Q. We're now in November of 2014; right?

8 A. Yes.

9 Q. So here in the first bullet point, it
10 says, "Hydrocodone going CII has increased the
11 priority on rolling out."

12 Do you know what that means?

13 A. No.

14 Q. The next bullet point is "Goal is to
15 have in place by Q3 FY15." Do you know what that
16 means?

17 A. Q3 FY15 would be our quarter three of
18 our fiscal year 2015.

19 Q. And what's it mean by goal is to have it
20 in place, if you know?

21 A. I can allude that it's the CSOS would be
22 in place.

23 Q. The next bullet point says "All sites
24 need to get registered with the DEA." Do you see
25 that?

1 A. Yes.

2 Q. Then the next was "Ordering will occur
3 through enterprise software that will allow orders
4 to flow to either McKesson or Anda." Right?

5 A. Correct.

6 Q. Then the last one is "Central signer at
7 office."

8 A. Correct.

9 Q. The top bullet point about "Hydrocodone
10 going CII has increased the priority on rollout,"
11 you've got no understanding of what that means?

12 MR. KOBRIN: Object to form.

13 THE WITNESS: Just that hydrocodone
14 going CII has increased the priority.

15 BY MR. HUDSON:

16 Q. Why was that, if you know?

17 MR. KOBRIN: Object to form.

18 THE WITNESS: Hydrocodone moved to a
19 CII. So now it would have to be ordered
20 differently than how it was ordered when it was a
21 CIII.

22 BY MR. HUDSON:

23 Q. Did Giant Eagle or HBC have the ability
24 to order hydrocodone at this time before the CSOS
25 system was implemented?

1 A. Yes.

2 Q. So then what would about hydrocodone
3 going CII would increase the priority on rolling
4 out, if you know?

5 A. It would be another line item on a paper
6 document.

7 Q. Was there a high volume of hydrocodone?

8 A. I don't know.

9 Q. Let's turn, if we could, back to a
10 separate section that's entitled Procurement
11 Update, and it's presented by Mike Bianco. And
12 this is Bates ending 575.

13 A. Okay.

14 Q. Take a minute if you would just to read
15 that.

16 A. Okay.

17 Q. So let's turn if we could to the first
18 page of your presentation, which is the Bates
19 ending 576. If you could, just explain to us what
20 this slide means, what you're saying here?

21 A. We must have renegotiated the contract
22 with McKesson at the time, and these are the
23 savings figures.

24 Q. The last dash says, [REDACTED] in
25 annual spend moved out of HBC warehouse to

1 McKesson." Is that a reference to the hydrocodone
2 combination products?

3 A. It was if we renegotiate the whole
4 contract, we would have looked at all items. I
5 believe we did have a renegotiation with McKesson
6 at this, at this time.

7 Q. But to the best of your recollection,
8 when you're looking at this, you believe that you
9 saved [REDACTED] during the renegotiation or you
10 were spending [REDACTED] more?

11 A. Saved.

12 Q. And that's true even though there was a
13 [REDACTED] in annual spend moved out of the HBC
14 warehouse to McKesson?

15 A. It appears to be, yes.

16 Q. Explain to me, if you could, if you
17 recall, how you got to the [REDACTED] savings
18 number.

19 MR. KOBRIN: Object to form.

20 THE WITNESS: I don't remember the
21 details on that. I mean, generally what we do is
22 we take -- it's a bid process. So you take your
23 lowest net cost on each item, and then you come
24 back with that.

25

1 BY MR. HUDSON:

2 Q. If you look at the four dashes, the
3 second dash and the third dash, the second one
4 says, "[REDACTED] currently in fiscal year
5 margin build." Right?

6 A. Yep.

7 Q. What does that mean?

8 A. That [REDACTED] would have been
9 already accounted for in '15.

10 Q. And then the next one is "[REDACTED]
11 vendor income impact." And is the impact positive
12 or negative?

13 MR. KOBRIN: Object to form.

14 THE WITNESS: I don't know. I would
15 assume it's -- I don't know. I don't remember the
16 details around this negotiation. I'm sorry.

17 BY MR. HUDSON:

18 Q. That's kind of what I was getting at, is
19 trying to figure out if it was, in fact,
20 [REDACTED] in savings or it was a [REDACTED]
21 impact because the hydrocodone products were no
22 longer being housed in the HBC facility and now
23 McKesson was going to be the distributor for those
24 products.

25 MR. KOBRIN: Object to form.

1 THE WITNESS: Was there a question?

2 BY MR. HUDSON:

3 Q. That's what I'm trying to figure out.
4 If you look at the second and third dashes, you
5 see [REDACTED] currently in fiscal year '15
6 margin build"?

7 A. Yes.

8 Q. And then the next one is [REDACTED]
9 vendor income impact"; right?

10 A. Correct.

11 Q. If you add those together, that's
12 [REDACTED]; right? Do you agree?

13 A. Yes. So it must have been a positive
14 margin impact.

15 Q. So you think that this is saying that
16 the McKesson contract renegotiation was going to
17 save [REDACTED]?

18 A. Correct.

19 Q. But in terms of how, from just looking
20 at this slide, you can't say how it is that Giant
21 Eagle was saving it other than just the contract
22 itself was being renegotiated and the terms were
23 going to lead to [REDACTED] in savings?

24 A. Yeah. This is the November bid;
25 correct? We looked at every item. It's an

1 extremely intensive process. You look at every
2 item and work to get the lowest net cost and
3 understand the impact of that.

4 Q. I got that. I was just trying to make
5 sense of the [REDACTED] and [REDACTED], if you
6 know, and what those -- what's built into those
7 two numbers.

8 It does seem, at least to me, like that would
9 be the [REDACTED]. I'll also admit I'm an
10 accounting major, so this isn't terribly
11 pertinent. But I was just kind of trying to
12 figure it out because I was curious.

13 A. I mean, we would have looked at it. I
14 don't know.

15 Q. Fair enough. Do you have any sense of
16 what the hydrocodone combination products volumes
17 were in terms of dosage units or pills that were
18 shipped by the HBC warehouse between November 2009
19 and October 2014?

20 A. No. In 2009 I was in still in school
21 all the way up through, so no, up through 2013.

22 Q. Are you aware of any shipments of
23 hydrocodone combination products that were flagged
24 by the HBC warehouse as being beyond thresholds?

25 MR. KOBRIN: Object to form.

1 THE WITNESS: I believe we saw an email
2 earlier that stated that.

3 BY MR. HUDSON:

4 Q. That one in the end, do you know what
5 happened, whether or not that order was actually
6 shipped or not shipped? That was the one relating
7 to store 8; right?

8 A. I think it was Exhibit 10 maybe.

9 Q. I'm thinking maybe it was Exhibit 7.

10 A. If it didn't state in the email, I don't
11 know. I don't recall. If it states in the email,
12 then I can read what was on the email.

13 Q. And are you aware of any pharmacists
14 that refused to fill prescriptions for hydrocodone
15 combination products on the grounds that it was at
16 risk of diversion?

17 A. Specific examples you're asking?

18 Q. Yeah.

19 A. I don't know of any specific examples.

20 Q. How about investigations of flagged
21 orders of hydrocodone products other than the one
22 that we talked about today in Exhibit 7?

23 A. Am I aware of them?

24 Q. Yes.

25 A. Yes.

1 Q. I mean, in other words, you're aware of
2 specific investigations that occurred other than
3 the ones that we've talked about today?

4 A. Not specific examples, no.

5 Q. Do you have any sense of the volume, in
6 other words, the number of investigations that
7 occurred?

8 A. No.

9 Q. Do you know who conducted the
10 investigations?

11 A. During which time period?

12 Q. November of 2009 to October of 2014.

13 A. I can only speak to the time when I
14 was -- the only ones I'm aware of would be Joe
15 Millward. And part of it is because I wasn't in a
16 role that I knew was even in the corporate office.
17 But Joe Millward, Rick Shaheen. And I know they
18 had teams, but I don't know who necessarily was on
19 those teams. George Chunderlik would have been
20 another one, I think.

21 Q. Do you know how many investigations that
22 team conducted?

23 A. No.

24 MR. KOBRIN: Object to form.
25

1 BY MR. HUDSON:

2 Q. Do you know what criteria was applied in
3 conducting those investigations?

4 MR. KOBRIN: Object to form. I think we
5 covered all this stuff.

6 THE WITNESS: No.

7 MR. HUDSON: I don't think I have any
8 further questions. He's just got a couple that
9 will take probably ten minutes. Do you want to
10 just knock those out?

11 MR. KOBRIN: Yeah. You want to just
12 knock them out and do lunch?

13 MR. HUDSON: Yeah.

14 MR. KOBRIN: We'll probably have a
15 little bit of cleanup I think. Actually, we
16 should ask Mike. Do you want to take a break? Do
17 you want to have lunch?

18 THE WITNESS: I'm okay.

19 MR. KOBRIN: Are you sure?

20 THE WITNESS: Yes.

21 Let's take a break actually. I'll use the
22 rest room.

23 MR. KOBRIN: We'll take a very quick
24 break.

25 THE VIDEOGRAPHER: The time is

1 12:44 p.m. We're going off the video record.

2 (Recess from 12:44 p.m. to 12:55 p.m.)

3 THE VIDEOGRAPHER: The time is

4 12:55 p.m. We are now back on the video record.

5 (HBC-Bianco Exhibit 17 was marked.)

6 EXAMINATION

7 BY MR. SIDLINGER:

8 Q. Sir, my name is Thomas Seidlinger. I'm
9 going to ask you a few questions. It shouldn't
10 take too long. I'm handing you what's been marked
11 as Exhibit 17.

12 MR. SIDLINGER: That exhibit has an
13 internal reference number HBC-1195.

14 BY MR. SIDLINGER:

15 Q. This exhibit appears to be a discussion
16 between Boca Pharmaceutical -- are you aware of
17 that company?

18 A. With Boca, yes.

19 Q. If we look at the bottom of the first
20 page, this is the beginning of an email that
21 starts on December 17, 2013, and it continues onto
22 the next page. This email is from Mike Lupo at
23 Boca Pharmaceutical to someone called Allen
24 Lowther.

25 Are you aware of who Allen Lowther is?

1 A. Yes.

2 Q. Who is that?

3 A. Allen was in our -- I can't remember if
4 it was indirect or direct. I think it was direct
5 procurement, on the procurement side, so the
6 department internally on our procurement side.

7 Q. So he's a GE employee or Giant Eagle
8 employee?

9 A. Yes.

10 Q. And the subject is regarding hydrocodone
11 APAP Elixir/Tab Conv Progress Status. And
12 continuing to the email, Mr. Lupo is saying to
13 Allen, "Just a quick FYI regarding your December
14 program status. December 1, 2013 to December 17,
15 2013 you purchased a total of 1152 bottles
16 combined. The threshold for the month is 3250
17 bottles in order to qualify for the rebate this
18 month."

19 Now, when he's saying in order to qualify for
20 the rebate this month, does that mean to you that
21 Giant Eagle HBC would have to order 3250 bottles
22 hydro APAP elixir to be able to reach that rebate?

23 A. I want to read the document.

24 Q. Absolutely.

25 A. What was the question? I apologize.

1 Q. Looking back at Mr. Lupo's email on page
2 2, it says the threshold for the month is 3250
3 bottles. According to the subject line, we're
4 discussing hydro APAP elixir.

5 Is it the case -- is it your understanding
6 that what Mr. Lupo is saying is that Giant Eagle
7 would have to order 3250 bottles of hydro APAP
8 elixir in order to qualify for the threshold?

9 A. That's how it reads, yes.

10 Q. Then in the first paragraph, the first
11 sentence, he gives you the amount that had been
12 ordered up to the 17th of that month,
13 December 2013, which he represents is 1152
14 bottles; is that correct?

15 A. Yes.

16 Q. Will you look back then on the first
17 page. After that email, there's internal
18 discussion at Giant Eagle or HBC. First Allen
19 discusses with Mr. Carlson and you -- he forwards
20 you that, and he notes that you achieved the
21 rebate in November with a \$48,000 credit coming;
22 is that correct?

23 A. Yes.

24 Q. So this is a monthly thing with -- a
25 monthly rebate program where every month, if you

1 reach a certain threshold, you could get money
2 back to Giant Eagle; is that correct?

3 MR. KOBRIN: Object to form.

4 THE WITNESS: Without seeing the
5 agreement, it appears to be.

6 BY MR. SIDLINGER:

7 Q. Then you ask Allen and Mr. Carlson the
8 status on the tabs. What does tabs mean?

9 A. Tablets.

10 Q. Okay. And Carlson then inquires to you
11 and Allen on December 18, 2013 whether -- he says,
12 "Can we hit the December number?"

13 When he says, "Can we hit the December
14 number," to you does that mean the number
15 represented on the second page of 3250 bottles?

16 A. Yes.

17 Q. And then above that, a few hours, two
18 and a half hours later, on Wednesday, December 18,
19 2013, you send an email to Mr. Carlson and Allen.
20 And in that email, the first sentence you say is,
21 "Can we add to the \$4/\$10 list or do a free
22 promotion?"

23 What is a \$4/\$10 list?

24 A. The \$4 and \$10 list was a list of
25 medications that had a low UNC, UNC price of \$4

1 and \$10.

2 Q. What's UNC?

3 A. I'm sorry. Usual and customary price,
4 so the cash price.

5 Q. And you say "or do a free promotion."
6 Are you suggesting here that you do some promotion
7 to be able to hit the December number?

8 A. I think I was likely joking about this,
9 but -- I think I was likely joking.

10 Q. If your joke was taken at face value,
11 would it be suggesting that there be a promotion
12 to increase that number?

13 MR. KOBRIN: Object to form.

14 THE WITNESS: The two individuals on
15 this list wouldn't have taken it at face value or
16 on this email wouldn't have taken it at face
17 value. But, yes, to the lay person.

18 BY MR. SIDLINGER:

19 Q. Would the joke be that it would be
20 preposterous that would be suggesting some type of
21 promotion for hydro?

22 A. Yes.

23 Q. Why is that preposterous?

24 A. Because we had traditionally taken a
25 stance where we don't promote control II through

1 Vs, Schedule II through V medication.

2 Q. And if you were promoting that, if you
3 were trying to increase your numbers through
4 promotion, then that would be a promotion of this;
5 correct?

6 MR. KOBRIN: Object to form.

7 THE WITNESS: I believe, yes.

8 BY MR. SIDLINGER:

9 Q. Let's go onto the next sentence that you
10 have here. "I'm not sure we're going to be able
11 to hit the December numbers. We're at 1152 and
12 need to get to 3250."

13 Just continuing through, "Total weekly burn
14 through 670." So what does that mean to you, the
15 total weekly burn through 670?

16 A. It looks like our typical movement on
17 this was 670 units. I don't know what unit is
18 based on this.

19 Q. You continue after that and you say, so
20 we'd really have to pick up some movement. We may
21 with the blocking of the higher standards, but I
22 don't know if we'll pick up that much.

23 MR. KOBRIN: Object to form. I think
24 you misread that sentence.

25

1 BY MR. SIDLINGER:

2 Q. Let me reread it, just the end. "We may
3 with the blocking of the higher strengths, but I
4 don't know if we'll pick up that much."

5 So taken as a whole, this email is you say
6 jokingly representing that you should do some type
7 of free promotion to increase the amount of hydro
8 sales that you have to then hit some threshold
9 that's going to allow you to get a rebate from
10 Boca Pharmaceuticals; is that correct?

11 MR. KOBRIN: Object to form.

12 THE WITNESS: Can you repeat that. I'm
13 sorry. There was a lot of parts to that.

14 BY MR. SIDLINGER:

15 Q. Absolutely. Taken as a whole, you are
16 suggesting, perhaps jokingly, that you do some
17 type of promotion to increase your numbers in
18 December of 2013 for hydrocodone APA elixir and
19 perhaps in doing so increase those numbers
20 sufficiently to hit your threshold for your rebate
21 from Boca Pharmaceuticals?

22 MR. KOBRIN: Object to form. I object
23 to the term perhaps jokingly. He made clear that
24 that was a joke because the company had a policy
25 not to promote at all II through V medications,

1 controlled substances.

2 BY MR. SIDLINGER:

3 Q. Would you answer.

4 A. I mean, the premise of the question is
5 somewhat misleading because it was clearly stated
6 as a joke, knowing our traditional position on it.
7 But, yes, we were looking for market share, if it
8 was taken at face value.

9 Q. So this is a discussion though of --
10 this discussion does center around whether or not
11 Giant Eagle pharmacies will be able to sell enough
12 hydrocodone to meet a rebate threshold; is that
13 correct?

14 A. No.

15 Q. How so? How is it not that?

16 A. I believe this is purchase. So it's not
17 necessarily what we were dispensing. It's what
18 we're purchasing.

19 Q. So it's a question of whether or not
20 you'll be able to purchase enough hydrocodone APAP
21 elixir to be able to meet that threshold and
22 receive a rebate from Boca Pharmaceuticals?

23 A. Correct.

24 Q. And the three of you, Mr. Carlson,
25 yourself and Allen here, are concerned whether or

1 not that's the case, whether or not you will meet
2 that threshold; is that correct?

3 A. We're discussing it, yes.

4 Q. Let's discuss then, stepping back, you
5 represented earlier that as a category manager,
6 part of what you're doing is setting up deals with
7 various vendors to facilitate pharmaceuticals for
8 Giant Eagle and HBC. Is that fair?

9 MR. KOBRIN: Object to form.

10 THE WITNESS: Yes.

11 BY MR. SIDLINGER:

12 Q. As part of that, did you ever have the
13 opportunity to discuss with McKesson any increases
14 to their internal thresholds for Giant Eagle
15 pharmacies?

16 A. Yes.

17 Q. Did McKesson ever provide you
18 information about how close to thresholds Giant
19 Eagle pharmacies were at any particular time?

20 A. I don't recall whether specifics were
21 given or not.

22 Q. Do you know of something called a CSMP
23 report?

24 A. No.

25 Q. I'll represent to you that that means

1 controlled substance monitoring program at
2 McKesson. Do you recall hearing that acronym used
3 at all?

4 A. No.

5 (HBC-Bianco Exhibit 18 was marked.)

6 BY MR. SIDLINGER:

7 Q. I'm going to mark as Exhibit 18
8 something that has an internal reference number
9 P-HBC-1201. The very first email, if we go to the
10 last page or the next to last page, it begins with
11 an email from what has an address email of
12 SAPHELP@McKesson.com. It was sent on May 22,
13 2014, and it was sent to someone named Sabrina
14 Cook at McKesson, someone named Telicia Lyndsey at
15 McKesson and then since there are not email
16 addresses, I'm guessing the remainder of those
17 people are employees of Giant Eagle.

18 Would you confirm for me that the remainder
19 of those names are Giant Eagle employees?

20 MR. KOBRIN: If you know.

21 THE WITNESS: Not all of them are
22 currently Giant Eagle employees.

23 BY MR. SIDLINGER:

24 Q. At the time do you believe that all of
25 them were?

1 A. Yes.

2 Q. And the subject line, if we turn to the
3 next page, includes CSMP Report Follow-up with
4 Account Manager.

5 Having seen this, do you recall having seen
6 any other similar emails where there's something
7 called CSMP report that's being sent from
8 McKesson?

9 A. I think I stated before I don't remember
10 the term CSMP, and I'm not on the original email
11 from McKesson.

12 Q. We're going to go to the first page
13 here. We'll go to when you do become involved.
14 And that is the second email where it says from
15 Joseph Millward on May 22, 2014. It's to you.
16 Todd Roahrig is cc'd on that. It's just
17 forwarding -- it's a forward of a previous
18 conversation about this report.

19 Joe states to you, "Based on the research and
20 documentation from 4008, can you please request
21 that McK increase the oxycodone threshold."

22 Now, let's just break that down for clarity's
23 sake. 4008, is that a store number?

24 A. Yes.

25 Q. So Giant Eagle pharmacy 4008. And

1 Mr. Millward is asking you to request from -- is
2 McK McKesson?

3 A. Traditionally, we've referred to them as
4 McKesson or McK, yes. We refer to McKesson as
5 McK.

6 Q. So he's asking you to request from
7 McKesson an increase in oxycodone thresholds for
8 that 4008 store; is that correct?

9 A. Yes.

10 Q. And you respond to him. If you go to
11 the one above and you look below, it says Bianco,
12 Jr., Mike, (pharmacy) wrote: Do you have
13 precrafted language that's been used in the past?
14 I assume the generic "raise the threshold" is not
15 sufficient here.

16 MR. KOBRIN: I think you misread that
17 slightly.

18 BY MR. SIDLINGER:

19 Q. I assume a generic "raise the threshold"
20 is not sufficient enough.

21 So if we look at raise the threshold, which
22 you put in quotes there, is it your belief that
23 what's being discussed here is a threshold set at
24 McKesson?

25 A. Yes.

1 Q. And from the prior email from Joe
2 Millward, that threshold being discussed then
3 would be the oxycodone threshold for store 4008?

4 A. Yes.

5 Q. And so you're asking then in this email
6 it looks like, because the top says Carlson,
7 Gregory, you're asking Mr. Carlson what has been
8 used in the past to request from McKesson an
9 increase in thresholds?

10 MR. KOBRIN: Object to form.

11 THE WITNESS: Are you asking that?

12 BY MR. SIDLINGER:

13 Q. Yeah. Is that what's occurring here?

14 A. Yes.

15 Q. And Mr. Carlson then replies to you at
16 the very top. He says, "Just copy and paste the
17 store's response and ask for a 10 percent
18 increase."

19 Do you know how he arrived at the 10 percent
20 figure?

21 MR. KOBRIN: Object to form.

22 BY MR. SIDLINGER:

23 Q. Do you know how he arrived at that
24 10 percent increased figure?

25 A. No.

1 MR. KOBRIN: Object to form.

2 BY MR. SIDLINGER:

3 Q. Do you recall in your discussions with
4 McKesson how you would arrive at the amount of an
5 increase to request?

6 A. I don't --

7 MR. KOBRIN: Object to form.

8 THE WITNESS: I don't believe we
9 specifically requested percent increases. I think
10 we gave them the information, but they created
11 their own thresholds.

12 BY MR. SIDLINGER:

13 Q. You don't think you -- you'd be
14 surprised if you requested percent increases?

15 A. I don't recall that. I don't know if
16 they were ever granted that way. I just don't
17 recall the procedure. Typically, we gave them the
18 information, and they created that.

19 Q. And what would lead to you requesting a
20 threshold increase? Is there some triggering
21 event that says I think we might need to increase
22 the amount for this store?

23 MR. KOBRIN: Object to form and
24 foundation.

25 THE WITNESS: I never was the one that

1 initiated that request. So it would always come
2 from somebody else. I would be a pass through,
3 like a conduit to McKesson. They were my vendor.

4 BY MR. SIDLINGER:

5 Q. Who would that come from?

6 A. Either compliance, the store, PDL.

7 Q. And what's your understanding as to why
8 they would be requesting that you go ahead and
9 request an increase in the threshold?

10 A. That they would have hit their
11 threshold.

12 Q. How would they know that they hit their
13 threshold?

14 A. I don't know that.

15 Q. Isn't the threshold the internal
16 McKesson threshold?

17 MR. KOBRIN: Object to form.

18 THE WITNESS: When you say internal, do
19 you mean Giant Eagle's internal threshold?

20 BY MR. SIDLINGER:

21 Q. Well, you're asking McKesson to increase
22 the amount that you can purchase of a certain drug
23 from McKesson; is that correct?

24 A. Yes.

25 Q. And so to be able to know that you need

1 to increase that number, you'd have to know what
2 that number is.

3 MR. KOBRIN: Object to form.

4 THE WITNESS: You would need know that
5 you hit that number, not know what that number is.

6 BY MR. SIDLINGER:

7 Q. So McKesson -- to know that, McKesson
8 would have to provide you with what they have set
9 as their threshold for you to hit, or is there
10 some other way that that number is set?

11 MR. KOBRIN: Object to form. He just
12 said he wouldn't need to know that exact
13 information.

14 BY MR. SIDLINGER:

15 Q. Who sets the McKesson threshold?

16 A. McKesson.

17 Q. If you are going to hit or hit that
18 threshold, who would tell you that you hit that
19 threshold?

20 A. No one would tell me that.

21 Q. Who would tell Giant Eagle that they hit
22 that threshold?

23 A. McKesson.

24 Q. And to ask for an increase in the
25 threshold then, Giant Eagle would have to already

1 have known that they have either hit or come close
2 to hitting the McKesson threshold?

3 MR. KOBRIN: Object to form.

4 COUNSEL ON THE PHONE: Object to form.

5 THE WITNESS: Correct.

6 (HBC-Bianco Exhibit 19 was marked.)

7 BY MR. SIDLINGER:

8 Q. The last document that we have --

9 MR. KOBRIN: Is this going to be fairly
10 quick?

11 MR. SIDLINGER: There's just one more.

12 MR. KOBRIN: You said you'd be 10
13 minutes, and we're at 25 now.

14 MR. SIDLINGER: This is the last one.

15 Exhibit 19 has an internal reference number
16 P-HBC-1165.

17 BY MR. SIDLINGER:

18 Q. We skip to the second page to review the
19 first email. That email is from -- well,
20 actually, it looks like it includes an even
21 earlier email that doesn't have a date.

22 The first email with a date in the chain is
23 from you to Mr. Millward, Mr. Chunderlik and then
24 you include some additional parties on the cc.
25 The subject is 35 Missing Totes. The date is

1 April 18, 2014.

2 And your email then says, "Joe and George, I
3 confirmed with 35" -- is it your understanding
4 that 35 means pharmacy 35?

5 A. Yes.

6 Q. "I confirmed with 35 that they did not
7 receive the missing tote from yesterday."

8 What's a tote, sir?

9 A. A tote is what the products were shipped
10 in.

11 Q. So what controlled substances and
12 presumably noncontrolled substances are shipped
13 in?

14 MR. KOBRIN: Object to form.

15 THE WITNESS: What the products that the
16 pharmacy received were shipped in, not necessarily
17 prescription or otherwise.

18 BY MR. SIDLINGER:

19 Q. It says, continuing on with the email,
20 "...the contents of which are below."

21 And we skip to the last page. There's a
22 number of what appear to be pharmaceuticals and
23 quantities next to them. The third one is hydro
24 probably codone, APAP with two at a hundred units
25 is how I'm reading that. Is that how you're

1 reading that, too?

2 A. No. The way I would read that is two
3 units of hydrocodone -- hydrocodone acetaminophen
4 5/325, a hundred tablet bottles, so two units.

5 Q. Thank you. Then the next one is similar
6 for one unit, but instead of 5/325 -- sorry.
7 Instead of 5/325 it's 300; correct?

8 A. Yes.

9 Q. So we are talking at least in part about
10 hydrocodone-containing products; correct?

11 A. Yes.

12 Q. Let's go back to your email. The second
13 sentence of your email says, "We contacted all
14 other stores on their route, and they do not have
15 it and the warehouse has confirmed that it was
16 shipped. Would you like pharmacy 35 to complete a
17 Form 106?"

18 Now, does Form 106 refer to DEA Form 106?

19 A. Yes.

20 Q. Is DEA Form 106 a suspected loss form?

21 A. I don't know the official title of it,
22 but, yes, it's commonly known as lost or stolen
23 form.

24 Q. Then the remaining emails that happen
25 after this point I'm going to take to be

1 discussions within HBC and GE as to who should be
2 responsible for filling out that form. So if we
3 look at the one directly above, it says -- this is
4 from Joseph Millward. It says according to Bill
5 Runick -- who is Bill Runick, sir?

6 A. I believe that's a typo. Rumcik, he is
7 a PDL.

8 Q. So he's a pharmacy district leader
9 probably I would assume for store 35?

10 A. You could assume. I don't know.

11 Q. It says, the store discovered the
12 problem and did not sign for the missing tote.
13 The responsibility for completing the DEA Form 106
14 belongs to HBC. The reason would be loss in
15 transit. Bill and I can provide guidance in
16 completing the controlled substance theft/loss
17 reporting form.

18 MR. KOBRIN: There's a slight misread
19 there. I'm not asserting that it's substantive,
20 but it says Bill or I, not Bill and I.

21 MR. HUDSON: Thank you.

22 BY MR. SIDLINGER:

23 Q. Above that there's an email from you.
24 It says, "Do I need to follow up with
25 HBC/McKesson, or is it their responsibility?

1 Remember I've only passed about 60 hours ago lol."

2 What's the passed about 60 hours ago?

3 A. My pharmacy boards.

4 Q. So you recently passed your pharmacy
5 boards within the last number of days?

6 A. Yes, from the date this was written.

7 Q. And above Mr. Carlson is saying that HBC
8 needs fill out the form, but that we -- I'm
9 assuming the people in this email chain -- can do
10 it on their behalf. It says, "McKesson never
11 takes ownership of the product. Do you want me to
12 submit?"

13 Then you say to Mr. Carlson, "You kidding?
14 Billy called me up and Billied," in quotes, "me
15 and said you never want your name on that. I
16 really thought it was the store's job to report
17 it. Notes say that, but not necessarily say they
18 owned it."

19 So this to me is representing that you had a
20 discussion with Bill Runik or what's his name?

21 A. Rumcik.

22 Q. And that Mr. Rumcik had suggested to you
23 that you don't want be the one to submit the Form
24 106; is that correct?

25 A. Yes.

1 Q. And if we go above that where it says --
2 the email directly above where you write, "What
3 you said you'd submit...yes, please do. Bill has
4 convinced me I'm going to jail if I fill it out on
5 this one."

6 Mr. Carlson then replies, "Chicken. Did you
7 steal it?"

8 And you reply, "Yes, I am chicken. No, I did
9 not steal it. Just would like to officially have
10 my license in hand before I have to hand it back."

11 So in that very top sentence, what are you
12 saying there?

13 MR. KOBRIN: Object to form.

14 THE WITNESS: It says, yes, I am chicken
15 on the record.

16 BY MR. SIDLINGER:

17 Q. Are you suggesting that you're just
18 emphasizing the fact that you do not want to be
19 the one to submit the 106 form?

20 MR. KOBRIN: Object to form. I think he
21 established that he talked about how he was
22 relatively new having just taken the boards.

23 THE WITNESS: Yeah, I'm answering Greg's
24 question, are you chicken.

25

1 MR. SIDLINGER: No further questions.

2 Appreciate it.

3 THE VIDEOGRAPHER: The time is 1:24 p.m.

4 We're going off the video record.

5 (Recess from 1:24 p.m. to 2:13 p.m.)

6 THE VIDEOGRAPHER: The time is 2:13 p.m.

7 We're now back on the video record.

8 EXAMINATION

9 BY MR. KOBRIN:

10 Q. Mr. Bianco, you spoke earlier today with
11 plaintiffs' counsel about the Controlled
12 Substances Act. Do you remember that?

13 A. Yes.

14 Q. In your education and in your career,
15 have you studied the Controlled Substances Act?

16 A. Yes, not in detail, but highlights.

17 Q. And have you also looked at the
18 regulations of the Controlled Substances Act?

19 A. Yes.

20 Q. Based on your knowledge and experience
21 and education and your career, what is the central
22 thrust of the Controlled Substances Act and its
23 regulations?

24 A. It's the security requirements, so a
25 combination of different processes in place that

1 would allow you to safeguard from theft or
2 diversion.

3 Q. You also spoke earlier today about
4 conversion factors. Do you remember that?

5 A. Yes.

6 Q. I believe you testified about conversion
7 factor errors causing some orders to be stopped at
8 the warehouse.

9 A. Yes.

10 Q. Is that accurate? When an order at the
11 warehouse is stopped because it's unusual or
12 different, does HBC know what caused the order to
13 be unusual or different?

14 A. They do not.

15 Q. So if it was a conversion factor error,
16 how would they find out it was a conversion factor
17 error rather than potential diversion issue?

18 A. The only way the root cause would be
19 identified is through an investigation from
20 whoever was doing the investigation at the time,
21 whether it be the warehouse or a corporate member.

22 Q. So when you refer to them as conversion
23 factor errors that caused orders to be stopped,
24 they weren't stopped because someone said that's a
25 conversion factor error. They were stopped

1 because there was something unusual about it?

2 A. Yes. There would be no way for them to
3 know it was a conversion factor or not. They
4 would have no idea.

5 Q. Could you look at Exhibit 7.

6 A. Okay.

7 Q. Do you have that in front of you?

8 A. Yes.

9 Q. Plaintiffs' counsel asked you about Greg
10 Carlson's email at the top of that exhibit where
11 Greg Carlson says to you, "I thought flu did not
12 impact our numbers?" Do you see that?

13 A. Yes.

14 Q. Now, I know that you don't remember this
15 specific email; is that right?

16 A. Correct.

17 Q. At the time of this email in early 2014,
18 did you have conversations with Greg Carlson about
19 flu impacting Giant Eagle's numbers?

20 A. Greg and I would joke a lot about -- we
21 had a pretty jovial relationship, but we would
22 often attribute changes in a -- sales year over
23 year variance to flu which upper management
24 didn't -- they wouldn't allow us to attribute
25 changes to flu. So that's kind of where it came

1 from, I think.

2 Q. So he's here joking about upper
3 management telling you not to attribute things to
4 flu even though you thought that they were
5 attributable to flu?

6 A. Correct.

7 Q. How certain are you that this email from
8 Mr. Carlson to you about thinking flu did not
9 impact our numbers, how certain are you that
10 that's a joke?

11 A. I'm certain. Like I said, we had a
12 pretty -- as seen by other emails that were shown
13 today, we had a very jovial relationship.

14 Q. Could you turn to Exhibit 14.

15 A. Okay.

16 Q. Do you have that in front of you?

17 A. Um-hum.

18 Q. You had a long conversation with
19 plaintiffs' counsel about who the warehouse had
20 reported having no hydrocodone-containing products
21 on hand to. Do you recall that?

22 A. Yes.

23 Q. And plaintiffs' counsel insisted that
24 you were referring to a report to the DEA.
25 Reading this today, who else to your mind could

1 the warehouse have been -- strike that.

2 Reading this today, do you interpret that as
3 being reporting to a particular entity or who else
4 could you have been referring to that the
5 warehouse reported to?

6 MR. HUDSON: Object to the form.

7 BY MR. KOBRIN:

8 Q. Strike that. Reading this today, how do
9 you interpret that second sentence in the first
10 paragraph of your email to Mr. Millward?

11 A. I think I had mentioned earlier that I'm
12 not comfortable deducing who I'm talking about
13 reporting. It could have been reported to me, to
14 their leadership. In any of our systems it could
15 have been reported into, our inventory systems.
16 It could have been to the DEA. I'm just not
17 comfortable saying who that was reported to.

18 Q. But when you'd refer to things as being
19 reported, would it be sometimes reported to
20 systems or reported to databases and the like?

21 A. Yes.

22 Q. Turn to Exhibit 19. Reading over these
23 emails between you and Greg Carlson as well as
24 Mr. Bianco, how would you characterize these
25 emails?

1 A. Jovial, probably immature as well.

2 Q. Are they serious, or are you joking?

3 A. No. Complete jokes, yeah, other than
4 the seriousness of the 106.

5 Q. You're joking about going to jail or
6 being chicken and all those other things?

7 A. Exactly.

8 Q. You're just trying to figure out who
9 should be filling out the forms properly?

10 A. Exactly.

11 Q. And who should be the best party to do
12 that.

13 A. Yes.

14 Q. At this time you joked in this about
15 having just passed your boards; is that correct?

16 A. No. I did just pass my boards.

17 Q. Right. But you're joking about how you
18 have just passed them and so you don't want to run
19 any problems or do anything that could potentially
20 be controversial after having just passed your
21 boards. You're joking about that; correct?

22 A. Correct. At the time I didn't have a
23 license. I just had passed my boards.

24 Q. So when was it that you passed your
25 boards based on this email?

1 A. April of '14, but I'm not sure of the
2 date.

3 Q. A lot of the emails you looked at today
4 then were prior to April of '14; is that accurate?

5 A. Yes.

6 Q. So you were not even a board certified
7 pharmacist at that time?

8 A. Correct. I was not licensed.

9 Q. So in some of these cases, were you a
10 more junior person on these email threads?

11 A. I think on every email I was the least
12 senior member on them that we looked at today.

13 Q. Some of the emails that you read today,
14 were you instructed by other people to send them
15 or were you following instructions from more
16 senior members of the Giant Eagle organization?

17 A. I presume, yes.

18 Q. That you.

19 RE-EXAMINATION

20 BY MR. HUDSON:

21 Q. Mr. Bianco, at what point in time did
22 the HBC warehouse gain the ability to stop orders
23 for things like the conversion factor errors?

24 A. In my tenure at Giant Eagle, they've
25 always had the ability to.

1 Q. And how would that happen? Would there
2 be a trigger in the computer system, or how would
3 those orders get stopped, if you know?

4 MR. KOBRIN: Object to form. Asked and
5 answered.

6 THE WITNESS: My tenure while I was at
7 the corporate office, not necessarily with Giant
8 Eagle because I wasn't aware of what was happening
9 when I wasn't at the corporate office, but I don't
10 know the details on how they were stopped or what
11 was involved. I just know that orders were
12 stopped.

13 BY MR. HUDSON:

14 Q. And as you sit here today, you don't
15 have any idea whether or not any orders were
16 stopped because they were suspicious orders at --
17 risk for diversion; right?

18 MR. KOBRIN: Object to form. He
19 wouldn't know why they were stopped at the time
20 they were stopped. We've established that.

21 MR. HUDSON: Great. Then he can say
22 that, but you don't need to.

23 THE WITNESS: We looked at one email
24 today that it was stopped for suspicious
25 activities and reported to the DEA.

1 BY MR. HUDSON:

2 Q. Right. And I think you testified
3 previously that you weren't sure how it was
4 stopped or when it was stopped or any of the
5 details surrounding that; right?

6 A. Correct, other than what --

7 Q. That would that be true for any orders
8 relating to suspicious order monitoring. In other
9 words, you don't know any of the details of a
10 particular order that was stopped at HBC or why it
11 was stopped or how it was stopped?

12 A. Other than what I read today; correct.

13 Q. You testified now that the central
14 thrust of the Controlled Substances Act is the
15 security requirement; is that right?

16 A. Yes. That's my understanding. I'm not
17 an attorney.

18 Q. What does central thrust mean?

19 A. I don't know if I used those words.

20 Q. I think counsel actually used them, and
21 you said yes. So when you said yes, why do you
22 have the view that central -- that the central
23 thrust of the Controlled Substances Act is the
24 security requirement?

25 A. My understanding is it's a combination

1 of everything and, for lack of a better term, one
2 shirt doesn't fit all or one size doesn't fit all.

3 Q. Right. So we've got security --

4 MR. KOBRIN: Can you let him finish.
5 You're interrupting.

6 MR. HUDSON: I think he was done.

7 MR. KOBRIN: Were you finished?

8 THE WITNESS: Go ahead.

9 BY MR. HUDSON:

10 Q. So you've got the security requirements
11 that are one section; right?

12 A. Correct.

13 Q. And then another section is suspicious
14 order monitoring; right?

15 MR. KOBRIN: Object to form.
16 Misrepresents the regulations.

17 THE WITNESS: I believe so.

18 BY MR. KOBRIN:

19 Q. And your point is that when you say one
20 size fits all, you mean you've got to be able
21 to -- that those are different sections that have
22 different requirements that you've got to meet; is
23 that fair?

24 MR. KOBRIN: Object to form.
25 Misrepresents testimony.

1 THE WITNESS: I believe it's a
2 combination of everything. I'm not an expert in
3 the area, but I believe it's a combination of
4 everything.

5 BY MR. HUDSON:

6 Q. Sure.

7 A. Given who you're selling it to, who your
8 clientele is, what product mix. There's a lot of
9 things that would go into what is needed.

10 Q. And I just want to make sure the record
11 clear. You're not suggesting that the suspicious
12 order monitoring isn't an important section of the
13 Controlled Substances Act; right?

14 A. It is a part of the Controlled
15 Substances Act, yes.

16 Q. You agree HBC had an obligation to
17 comply with that section; right?

18 MR. KOBRIN: Object to form. It's
19 misrepresenting the regulations versus the
20 statute.

21 THE WITNESS: We had an obligation to
22 follow the law.

23 BY MR. HUDSON:

24 Q. And one of the things that the federal
25 framework says is to order suspicious monitors of

1 controlled substances; is that fair?

2 MR. KOBRIN: Object to form.

3 THE WITNESS: Can you repeat that?

4 BY MR. HUDSON:

5 Q. Sure. One of the requirements of the
6 federal framework for controlled substances is to
7 monitor suspicious orders, to have a program in
8 place to monitor suspicious orders of controlled
9 substances?

10 A. Again, I'm not an expert on this area,
11 but my understanding is it's part of it, part of
12 it meaning it has to be -- there are several
13 factors that need to be put into place.

14 Q. And is that one of them?

15 A. I believe it could be one of them, yes.

16 Q. You said that you had a lot of
17 conversations with Greg and had a good
18 relationship relating to jokes back on this
19 Exhibit 7.

20 So is the joke that Greg is saying -- he's
21 just joking with you saying I thought flu did not
22 impact our numbers. I don't get what that joke
23 is.

24 A. We traditionally were not allowed to --
25 it's not that we weren't allowed to. We would

1 attribute changes year over year with when flu
2 season hit or when cough and cold season hit. As
3 you can assume, there's a lot of therapies that
4 are driven by what disease state you have, cough
5 and cold, flu, et cetera.

6 So we would often correlate changes in year
7 over year trends to flu or cough and cold season
8 when that hit. Our management never accepted that
9 as a reason for sales to have fluctuated.

10 Q. When you say your management, the people
11 who you reported to?

12 A. Above Greg.

13 Q. So within the organization, there were
14 some in the organization who believed that flu was
15 not an attribute that would cause a fluctuation in
16 the numbers, but you and Greg didn't agree with
17 that.

18 MR. KOBRIN: Object to form.

19 BY MR. HUDSON:

20 Q. So you're joking about that?

21 MR. KOBRIN: Object to form. Calls for
22 speculation and misrepresents the testimony.

23 THE WITNESS: I can tell you I didn't
24 agree with that, but I can't speak for Greg.

25

1 BY MR. HUDSON:

2 Q. I thought you testified that's how you
3 knew it was a joke.

4 A. We would joke about it, yes.

5 Q. But here you know it and in this email
6 that's what you're saying, right, is that he
7 doesn't actually believe that, he's joking about
8 it?

9 A. That's how I interpret it today. I
10 mean, I would need to talk to Greg if he felt that
11 way.

12 Q. Are you sure or not sure whether Greg is
13 joking or not?

14 A. I am certain he is joking in this.

15 MR. KOBRIN: As he's answering the
16 question.

17 BY MR. HUDSON:

18 Q. Then you're certain that Greg is of the
19 view that flu can impact the numbers?

20 A. In this situation, yes.

21 Q. Let's look, if we could, real quick back
22 to Exhibit 14. I know we spent a lot of time on
23 that. I just want to make one point.

24 MR. HUDSON: If we can pull up 1226.

25

1 BY MR. HUDSON:

2 Q. There was one thing I missed before. If
3 we turn to the first paragraph, you were just
4 asked some questions about whether you were
5 talking about the DEA, reporting to the DEA or
6 someone else.

7 You do agree with me in the first -- you've
8 got a clause there in the beginning of the second
9 sentence where you said at the time.

10 A. There is a clause, yes.

11 Q. And that's following the sentence that
12 says, "As you likely know, the DEA was in for an
13 inspection of the warehouse today specifically
14 asking about hydrocodone-containing products."
15 Right?

16 A. Yes.

17 Q. So you agree that at the time is a
18 reference to the first sentence?

19 MR. KOBRIN: Object to form.

20 THE WITNESS: It could be.

21 MR. KOBRIN: What do you mean by a
22 reference to the first sentence?

23 BY MR. HUDSON:

24 Q. You're saying in the first sentence of
25 the email the DEA came in and gave an inspection,

1 right, and was asking about hydrocodone
2 combination products. Then your second sentence
3 you started out at the time.

4 My question is: You're referencing then at
5 the time that the DEA came in for the inspection;
6 right?

7 A. That's how I read it.

8 Q. Right. The warehouse reported having no
9 hydrocodone-containing products on hand. So at
10 the time the DEA came in for an inspection, the
11 warehouse reported having no hydrocodone products
12 on hand.

13 Is there any doubt in your mind, as you sit
14 here today, that the warehouse was making their
15 report to the DEA?

16 MR. KOBRIN: Object to form.

17 THE WITNESS: I think I've answered that
18 several times, but I don't know who they reported
19 or how it was reported. I wasn't at the DEA
20 inspection.

21 BY MR. KOBRIN:

22 Q. Right. And that's what you testified to
23 before, and I'm just hoping that when you saw the
24 way that you had written the sentences together
25 and you said at the time referencing back to the

1 DEA inspection, that may clarify in your head
2 that, yeah, now that I see that, the DEA was
3 probably the only one there doing the inspection
4 at the time. And so it would make logical sense
5 that that's who the warehouse would be reporting
6 to.

7 MR. KOBRIN: Object to form.

8 BY MR. HUDSON:

9 Q. Do you think that's fair or unfair, or
10 you just don't know?

11 A. I think I've answered that before. I
12 don't know who they're reporting to.

13 MR. HUDSON: No further questions.

14 RE-EXAMINATION

15 BY MR. KOBRIN:

16 Q. I know you talked about how you don't
17 know the details of how orders were stopped. But
18 you know, do you not, that they were stopped at
19 the warehouse if they were unusual or different
20 from your experience; is that accurate?

21 A. Yes.

22 Q. Thank you.

23 MR. HUDSON: No further questions.

24 Thanks for your time.

25 THE VIDEOGRAPHER: The time is 2:30 p.m.

1 This concludes the video deposition.

2 (Whereupon, at 2:30 p.m., the taking of
3 the instant deposition ceased.)

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1 COMMONWEALTH OF PENNSYLVANIA)

2 COUNTY OF ALLEGHENY) SS:

3 C E R T I F I C A T E

4 I, Ann Medis, Registered Professional
5 Reporter, Certified Livenote Reporter and Notary
6 Public within and for the Commonwealth of
7 Pennsylvania, do hereby certify:

8 That MICHAEL BIANCO, the witness whose
9 deposition is hereinbefore set forth, was duly
10 sworn by me and that such deposition is a true
11 record of the testimony given by such witness.

12 I further certify the inspection,
13 reading and signing of said deposition were not
14 waived by counsel for the respective parties and
15 by the witness.

16 I further certify that I am not related
17 to any of the parties to this action by blood or
18 marriage and that I am in no way interested in the
19 outcome of this matter.

20 IN WITNESS WHEREOF, I have hereunto set
21 my hand this 23rd day of January, 2019.

22

23 _____
Notary Public

24

25

1 COMMONWEALTH OF PENNSYLVANIA) E R R A T A
2 COUNTY OF ALLEGHENY) S H E E T

2

3 I, MICHAEL BIANCO, have read the foregoing
4 pages of my deposition given on January 18, 2019,
5 and wish to make the following, if any,
6 amendments, additions, deletions or corrections:

5

6 Page Line Change and reason for change:

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19 In all other respects, the transcript is true and
20 correct.

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21

MICHAEL BIANCO

22

23 _____ day of _____, 2019.

24

Notary Public

25